

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY MAY 12, 2003

AMENDED IN ASSEMBLY MAY 5, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 300

Introduced by Committee on Education

(Coauthors: Assembly Members Goldberg (Chair), Plescia (Vice-Chair), Cohn, *Garcia*, Hancock, Liu, Mullin, Pavley, Reyes, and Wyland)

February 6, 2003

An act to amend Sections ~~5019~~, 8206, 8206.1, 8206.6, 8242, 8263, 8805, 8957, 11021, 35160.5, 35256, 35534, 35555, 35566, 35710, 35722, 35738, 35753, 35756, 35765, 39831.5, 41344, 41402, 41403, 8805, 11021, 35160.5, 35256, 39831.5, 41344, 41402, 41403, 41975, 42238, 42239.15, 44505, 45037, 46201, 46202, 48209.16, 48916, 48918, 48980, 52055.600, 52055.640, 56001, 56028, 56032, 56043, 56170, 56320, 56341.5, 56343.5, 56345.1, 56361, 56366, 56390, 56391, 56500.3, 56504.5, 56505, 56506, 56605, 56836.01, 56836.155, 56863, ~~58562~~, 60040, and 60119 of, to amend and renumber Section 56364.2 of, to add Sections 35517 and 35710.1 to, and to repeal Sections 8206.3, 8206.5, 8206.7, 8206.8, 8207, 11023, 17912.1, 32211, 35735.3, 41404, 41406, 41407, 45357, 45358, 48209.17, 51132, 51882, 56364, 56364.5, 62002, 62007, and 62008 of, the Education Code, to amend Sections 19050.8, 54901, and 54902 of, and to repeal Section 54903.1 of, the Government Code, and 62008 of, the Education

Code, to amend Section 19050.8 of the Government Code, and to amend Section 45 of Chapter 1167 of the Statutes of 2002, relating to education, and declaring the urgency thereof, to take immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 300, as amended, Committee on Education. Education.

(1) Existing law authorizes the Department of Education, upon request, to waive its regulations for staffing and group size ratios for programs in which subsidized children comprise a majority of the enrollment.

This bill would instead authorize the Superintendent of Public Instruction, upon request, to waive the requirements for staffing and group size ratios without regard to program enrollment.

(2) Existing law requires families to meet certain requirements to be eligible for subsidized child development services. One of the alternative eligibility requirements is that the parents are incapacitated, including having a medical or psychiatric special need that cannot be met without the provision of child day care.

This bill would delete that requirement and replace it with a requirement that the child is identified as having a medical or psychiatric special need that cannot be met without the provision of child day care.

(3) Existing law establishes the Healthy Start Support Services for Children Grant Program, requires participating local educational agencies and consortia to submit annually an evaluation report to the Superintendent of Public Instruction, requires the Superintendent of Public Instruction to cause an evaluation to be conducted by an independent organization of the effectiveness of the grant program, requires that independent evaluation to be submitted by June 1, 1994, to the Governor, the Secretary for Education, the Secretary of the Health and Welfare Agency, and the Legislature, and authorizes independent evaluations to be conducted subject to additional funding being made available for that purpose in subsequent fiscal years.

This bill would delete the provisions regarding the required independent evaluation and subsequent contingently authorized independent evaluations.

(4) Existing law requires the Trustees of the California State Summer School for the Arts to set a tuition fee of up to \$1,000 for the



1989 school year and authorizes the board to increase this fee by 5% every year thereafter.

This bill would delete the authorization for a 5% fee increase and would instead allow the board to set a tuition fee that corresponds with actual program costs.

(5) Existing law establishes the Academic Improvement and Achievement Act which authorizes local educational agencies to submit proposals to the Superintendent of Public Instruction to fund activities that will increase the percentage of pupils at qualifying high schools who meet the requirements for admission to the California State University and the University of California. Existing law provides that funding is contingent on an appropriation in the annual Budget Act and conditions renewal of funding on data regarding progress and improvement regarding various college readiness indicators. Existing law requires the superintendent to recommend, and the State Board of Education to approve, a plan for the comprehensive evaluation of the program by July 1, 2003, and would require the State Board of Education to report to the Legislature regarding the program by December 31, 2003.

This bill would delete the conditions for renewal of funding and the requirement regarding the comprehensive evaluation of the program.

(6) Existing law, the Classroom Instructional Improvement and Accountability Act, an initiative measure, requires the governing board of a school district to compare the content of the school district's school accountability report card to the model school accountability report card adopted by the State Board of Education. The initiative measure provides that it may be amended by the Legislature, only to further its purposes, by a bill that is passed with a $2/3$ vote of both houses of the Legislature and signed by the Governor.

This bill would delete the requirement that a school district compare its report card with the state model.

~~(7) Existing law provides for the formation and reorganization of school districts and defines various terms for this purpose.~~

~~This bill would define "uninhabited territory."~~

~~(8) Existing law requires that exchanges of property tax revenues between school districts that are a result of the reorganization of school districts be determined pursuant to a specified provision of the Revenue and Taxation Code.~~

~~This bill would limit this provision to cases in which at least one of the school districts is a basic aid school district.~~

~~(9) Existing law authorizes a county committee on school district organization to approve certain petitions to transfer territory from one school district to another and, if approved, to notify the county superintendent of schools who is required to call an election as prescribed by law. Existing law authorizes a county committee on school district organization to establish a common governing board for a high school district and an elementary school district within the boundaries of the high school district.~~

~~This bill would allow the election to be conducted by mail and would prohibit an election from being called if the territory to be transferred is uninhabited territory. The bill would authorize a county committee on school district organization to abolish a common governing board for a high school district and an elementary district within the boundaries of the high school district.~~

~~(10) Existing law requires a county committee on school district organization to formulate plans and recommendations for the organization of the districts in the county. Existing law authorizes the State Board of Education to approve the plans and recommendations for the reorganization of school districts and requires the county superintendent of schools, after receipt of notification of the board's approval of plans and recommendations, to call an election.~~

~~This bill would allow the election to be conducted by mail.~~

~~(11) Existing law requires the Superintendent of Public Instruction and Director of Finance to jointly establish a plan for repayment of school funds that a local educational agency received on the basis of average daily attendance that did not comply with statutory of regulatory requirements that were conditions of apportionments.~~

~~This bill would, commencing with the 1999–2000 fiscal year, prohibit the manner of reducing the amount disallowed for repayment purposes from resulting in a local educational agency repaying more than the value of the average daily attendance disallowed, plus interest and other penalties or reductions in apportionments as provided by existing law.~~

~~(12)~~

~~(8) Existing law sets forth the maximum allowable ratio of administrative employees to teachers in the various types of school districts and requires the Superintendent of Public Instruction to determine the ratio of administrative employees to teachers in each school district. Existing law requires the Superintendent of Public Instruction to determine the reduction in state support resulting from~~



excessive administrative employees. Existing law subjects school districts to annual audits regarding the ratio of administrative employees to teachers.

This bill would instead require a school district to determine that ratio and would set forth the manner of determining whether a school district is in compliance with the maximum allowable ratio. The bill would delete the provisions requiring the Superintendent of Public Instruction to determine the reduction in state support resulting from excessive administrative employees and subjecting school districts to annual audits regarding the ratio of administrative employees to teachers and would make conforming changes.

(13)

(9) Existing law prohibits apportionments and allowances to a school district from Section A of the State School Fund in a fiscal year to be less than \$120 per unit of average daily attendance or \$2,400, whichever is less.

This bill would instead prohibit those apportionments and allowances from being less than \$120 per unit of average daily attendance or \$2,400, whichever is greater.

~~(14) Existing law makes a school district and a charter school eligible for reimbursement for hours of pupil attendance claimed for intensive algebra instruction academies in an amount as specified.~~

~~This bill would, commencing with the 2002-03 fiscal year, require the Superintendent of Public Instruction to allocate a minimum of \$7,406, adjusted for inflation, for this program in each school district that had a prior fiscal year enrollment of less than 333 pupils and that offered at least 1,500 hours of supplemental summer school instruction; with a school district that had a prior fiscal year enrollment of less than 333 pupils and that offered less than 1,500 hours of supplemental summer school instruction receiving a proportionately reduced allocation.~~

(15)

(10) Existing law requires a county office of education to be assessed a penalty if it draws an order for a warrant in favor of a person for a period of service during which the person did not have a valid certification document.

This bill would instead require the assessment of that penalty if the county office of education releases a warrant in the circumstances described above.

(16)



(11) Existing law requires the Superintendent of Public Instruction to reduce a districts apportionment, as specified if the governing board of a school district offers less instructional time than the amount of instructional time fixed for the 1982–83 fiscal year.

This bill would, instead, make the reduction apply only to school districts that do not participate in the program that offers incentives for a longer instructional day and year.

~~(17)~~

(12) Existing law authorizes the governing board of a school district to accept interdistrict transfers under a policy that ensures that pupils are selected for admission through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on the pupil's academic or athletic performance. This authorization is inoperative on July 1, 2003, and is repealed on January 1, 2004.

This bill would, instead, make the authorization inoperative on July 1, 2008, and repeal it on January 1, 2009.

~~(18)~~

(13) Existing law requires the governing board of a school district to set a date when a pupil who is expelled for certain acts is required to be reviewed for readmission. Existing law requires the date set to be not later than the last day of the semester following the semester in which the expulsion occurred.

This bill would, for an expulsion ordered during summer session or the intercession period of a year-round program, require the review date to be set not later than the last day of the semester following the summer session or intercession period during which the expulsion was ordered.

~~(19)~~

(14) Existing law establishes the Teresa P. Hughes Family-School Partnership Award and Grant Program to provide grants and awards to school districts, as specified.

This bill would delete the provision providing grants under this program.

~~(20)~~

(15) Existing law establishes the High Priority Schools Grant Program for Low Performing Schools and requires the Superintendent of Public Instruction to allocate, from funds made available for purposes of the program, \$400 per pupil to eligible schools for implementation of a school action plan.



This bill would require the allocation to an eligible school to be not less than \$50,000 and would allow a school that received funding in the 2002–03 fiscal year to carry over funds until the 2003–04 fiscal year.

~~(21)~~

(16) Existing law requires a statement of the transition service needs of a pupil to be included in the pupil's individualized education program beginning at age 14.

This bill would also require this statement beginning at an age younger than 14 if determined by the individualized education program team pursuant to federal regulations.

~~(22)~~

(17) Existing law requires a school district, special education local plan area, or county office of education to conduct meetings to develop, review, and revise the individualized education program of an individual with exceptional needs. Existing law authorizes a school district, special education local plan area, or county office of education to inform parents or guardians of the right to bring to these meetings other people who have knowledge or special expertise regarding the individual with exceptional needs.

This bill would require a school district, special education local plan area, or county office of education to inform parents and guardians of the right described above, thereby imposing a state-mandated local program.

~~(23)~~

(18) Existing law requires a school district, special education local plan area, or county office of education to hold a meeting of an individualized education program team within 30 days, not counting days in July and August, when a parent requests a meeting to review an individualized education program.

This bill would instead not count the days between the pupil's regular school sessions, terms, or days of school vacation in excess of 5 schooldays, thereby imposing a state-mandated local program.

~~(24)~~

(19) Existing law authorizes school districts, special education local plan areas, and county offices of education to enter into master contracts regarding the provision of special education and related services with nonpublic, nonsectarian schools and agencies and authorizes a party to the proposed contract to appeal to the county superintendent of schools or the Superintendent of Public Instruction, as applicable, if after 60 days the master contract or related individual services agreements are



not finalized. Existing law requires the county superintendent of school of the Superintendent of Public Instruction, or his or her designee, to mediate the formulation of a contract within 30 days of the appeal and provides that the mediation is binding on both parties.

This bill would instead require the county superintendent of school or the Superintendent of Public Instruction, or his or her designee, to render a decision on the appeal which would be the final administrative decision on the matter within those 30 days.

(25)

(20) Existing law authorizes the award of a certificate or document of educational achievement or completion to an individual with exceptional needs who meets certain requirements and makes the recipient of this certificate or document eligible to participate in any graduation ceremony or school activity related to graduation in which a pupil of similar age without disabilities would be eligible to participate.

This bill would impose a state-mandated local program by requiring the award of this certificate or document and requiring a school district to permit the recipient to participate in the graduation ceremony and related school activities.

~~(26) Existing law authorizes certification of educational clinics that, among other things, recruit or receive referral of high school dropouts, provide instruction in basic academic skills, provide employment orientation or reentry orientation, operate on a clinical client-centered basis, and conduct courses of instruction. This authorization is inoperative on July 1, 2003, and is repealed on January 1, 2004.~~

~~This bill would make the authorization inoperative on July 1, 2007, and repeal it on January 1, 2008.~~

(27)

(21) Existing law establishes the Pupil Textbook and Instructional Materials Incentive Program and requires the governing board to hold a public hearing on prescribed matters in order to be eligible to receive program funds. Existing law requires the governing board to provide 10 days' notice of the public hearing, requires the notice to contain the time, place and purpose of the hearing, and requires the notice to be posted in 3 public places in the school district.

This bill would instead require the governing board to provide notice of the hearing in a manner in which it customarily provides similar notices and information to the public.



~~(28) Existing law requires a school district to file a statement regarding boundary changes with certain state and local officials.~~

~~This bill would require the statement to include the estimated public school pupil population for changes of organization or reorganizations that include the annexation to or detachment from a school district.~~

~~(29)~~

(22) Existing law appropriates \$313,908,000 from the General Fund for purposes of the School Improvement Program, with \$54,181,000 for purposes of making allowances for grades 7 to 12, inclusive. From the \$54,181,000, the State Department of Education is required to allocate \$34.72 per unit of average daily attendance (ADA) generated by pupils enrolled in grades 7 and 8 to school districts that received School Improvement Grants in the 1989–90 fiscal year at a rate of \$30 per unit of ADA generated by pupils enrolled in grades 7 and 8.

This bill would change the \$34.72 rate per unit of ADA to \$34.67 and would allocate \$123.18 per unit of ADA generated by pupils enrolled in grades 7 and 8 to school districts that received School Improvement Grants in the 1989–90 fiscal year at a rate of \$106.93 per unit of ADA generated by pupils enrolled in grades 7 and 8.

~~(30) This bill would require the average daily attendance for the second principal apportionment of the 2001–02 fiscal year for the Oxnard Union High School district to be calculated as 89.10% of the October 2001 CBEDS enrollment of 14,922, as approved by the Department of Finance.~~

~~(31)~~

(23) This bill would make other technical and nonsubstantive changes to the Education Code, repeal obsolete and duplicative provisions, and make changes in provisions governing child care and special education to conform to federal regulations.

~~(32)~~

(24) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that no reimbursement is required by specified provisions of this act for a specified reason.

However, the bill would also provide that, if the Commission on State Mandates determines that the bill contains other costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(33)

(25) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 5019 of the Education Code is amended~~
2 ~~to read:~~

3 ~~5019.—(a) Except in a school district governed by a board of~~
4 ~~education provided for in the charter of a city or city and county,~~
5 ~~in any school district or community college district the county~~
6 ~~committee on school district organization may establish trustee~~
7 ~~areas, rearrange the boundaries of trustee areas, abolish trustee~~
8 ~~areas, and increase to seven or decrease to five the number of~~
9 ~~members of the governing board, or adopt one of the alternative~~
10 ~~methods of electing governing board members specified in~~
11 ~~Section 5030.~~

12 ~~(b) The county committee on school district organization may~~
13 ~~also establish or abolish a common governing board for a high~~
14 ~~school district and an elementary school district within the~~
15 ~~boundaries of the high school district. The resolution of the county~~
16 ~~committee approving the establishment or abolishment of a~~
17 ~~common governing board shall be presented to the electors of the~~
18 ~~school districts as specified in Section 5020.~~

19 ~~(c) A proposal to make the changes described in subdivision (a)~~
20 ~~or (b) may be initiated by the county committee or made to the~~
21 ~~county committee either by a petition signed by 5 percent or 50,~~
22 ~~whichever is less, of the qualified registered voters residing in a~~
23 ~~district in which there are 2,500 or fewer qualified registered~~
24 ~~voters, or by a petition signed by 2 percent, or 250, whichever is~~
25 ~~less, of the qualified registered voters residing in a district in which~~
26 ~~there are 2,501 or more qualified registered voters or by resolution~~
27 ~~of the governing board of the district. For this purpose, the number~~
28 ~~of qualified registered voters in the district shall be determined~~

~~pursuant to the most recent report submitted by the county elections official to the Secretary of State under Section 610 or 6460 of the Elections Code.~~

~~When the proposal is made, the county committee shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee shall approve or disapprove the proposal.~~

~~(d) If the county committee approves pursuant to subdivision (a) the rearrangement of the boundaries of trustee areas for a particular district, then the rearrangement of the trustee areas shall be effectuated for the next district election occurring at least 120 days after its approval, unless at least 5 percent of the registered voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. The petition for an election shall be submitted to the elections official within 60 days of the proposal's adoption by the county committee. If the qualified registered voters approve pursuant to subdivision (b) or (e) the rearrangement of the boundaries to the trustee areas for a particular district, then the rearrangement of the trustee areas shall be effectuated for the next district election occurring at least 120 days after its approval by the voters.~~

~~SEC. 2.—~~

~~SECTION 1.~~ Section 8206 of the Education Code is amended to read:

8206. (a) The State Department of Education is hereby designated as the single state agency responsible for the promotion, development, and provision of care of children in the absence of their parents during the workday or while engaged in other activities which require assistance of a third party or parties. The department shall administer the federal Child Care and Development Fund.

(b) For purposes of this section, “Child Care and Development Fund” has the same meaning as in Section 98.2 of Title 45 of the Code of Federal Regulations.

~~SEC. 3.—~~

~~SEC. 2.~~ Section 8206.1 of the Education Code is amended to read:

8206.1. (a) The Superintendent of Public Instruction shall collaborate with the Secretary for Education and the Secretary of Health and Human Services, with the advice and assistance of the

1 Child Development Programs Advisory Committee, in the
2 development of the state plan required pursuant to the federal
3 Child Care and Development Fund, prior to submitting or
4 reporting on that plan to the federal Secretary of Health and
5 Human Services.

6 (b) (1) For purposes of this section, “Child Care and
7 Development Fund” has the same meaning as in Section 98.2 of
8 Title 45 of the Code of Federal Regulations.

9 (2) For the purposes of this section, “collaborate” means to
10 cooperate with and to consult with.

11 ~~SEC. 4.—~~

12 ~~SEC. 3.~~ Section 8206.3 of the Education Code is repealed.

13 ~~SEC. 5.—~~

14 ~~SEC. 4.~~ Section 8206.5 of the Education Code is repealed.

15 ~~SEC. 6.—~~

16 ~~SEC. 5.~~ Section 8206.6 of the Education Code is amended to
17 read:

18 8206.6. It is the intent of the Legislature that federal funds
19 received pursuant to the federal Child Care and Development Fund
20 be allocated according to federal regulations. For purposes of this
21 section, “Child Care and Development Fund” has the same
22 meaning as in Section 98.2 of Title 45 of the Code of Federal
23 Regulations.

24 ~~SEC. 7.—~~

25 ~~SEC. 6.~~ Section 8206.7 of the Education Code is repealed.

26 ~~SEC. 8.—~~

27 ~~SEC. 7.~~ Section 8206.8 of the Education Code is repealed.

28 ~~SEC. 9.—~~

29 ~~SEC. 8.~~ Section 8207 of the Education Code is repealed.

30 ~~SEC. 10.—~~

31 ~~SEC. 9.~~ Section 8242 of the Education Code is amended to read:

32 8242. If there are no facilities in the area able to meet the
33 special needs of particular children, the Superintendent of Public
34 Instruction may, upon request, waive the requirements for staffing
35 and group size ratios established pursuant to Section 8288.

36 ~~SEC. 11.—~~

37 ~~SEC. 10.~~ Section 8263 of the Education Code is amended to
38 read:

39 8263. (a) The Superintendent of Public Instruction shall
40 adopt rules and regulations on eligibility, enrollment, and priority

1 of services needed to implement this chapter. In order to be eligible
2 for federal and state subsidized child development services,
3 families shall meet at least one requirement in each of the
4 following areas:

5 (1) A family is (A) a current aid recipient, (B) income eligible,
6 (C) homeless, or (D) one whose children are recipients of
7 protective services, or whose children have been identified as
8 being abused, neglected, or exploited, or at risk of being abused,
9 neglected, or exploited.

10 (2) A family needs the child care service (A) because the child
11 is identified by a legal, medical, social service agency, or
12 emergency shelter as (i) a recipient of protective services, (ii)
13 being neglected, abused, or exploited, or at risk of neglect, abuse,
14 or exploitation, or (iii) having a medical or psychiatric special need
15 that cannot be met without provision of child day care or (B)
16 because the parents are (i) engaged in vocational training leading
17 directly to a recognized trade, paraprofession, or profession, (ii)
18 employed or seeking employment, (iii) seeking permanent
19 housing for family stability, or (iv) incapacitated.

20 (b) Except as provided in Article 15.5 (commencing with
21 Section 8350), priority for state and federally subsidized child
22 development services is as follows:

23 (1) First priority shall be given to neglected or abused children
24 who are recipients of child protective services, or recipients who
25 are at risk of being neglected or abused, upon written referral from
26 a legal, medical, or social service agency. If an agency is unable
27 to enroll a child in the first priority category, the agency shall refer
28 the family to local resource and referral services to locate services
29 for the child.

30 (2) Second priority shall be equally given to eligible families,
31 regardless of the number of parents in the home, who are income
32 eligible. Within this priority, families with the lowest gross
33 monthly income in relation to family size, as determined by a
34 schedule adopted by the superintendent, shall be admitted first.
35 When two or more families are in the same priority in relation to
36 income, the family that has been on the waiting list for the longest
37 time shall be admitted first. For purposes of determining order of
38 admission, the grants of public assistance recipients shall be
39 counted as income.

(3) The superintendent shall set criteria for and may grant specific waivers of the priorities established in this subdivision for agencies that wish to serve specific populations, including children with exceptional needs or children of prisoners. These new waivers may not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(c) Notwithstanding any other law, in order to promote continuity of services, a family enrolled in a state or federally funded child care and development program whose services would otherwise be terminated because the family no longer meets the program income, eligibility, or need criteria may continue to receive child development services in another state or federally funded child care and development program if the contractor is able to transfer the family's enrollment to another program for which the family is eligible prior to the date of termination of services or to exchange the family's existing enrollment with the enrollment of a family in another program, provided that both families satisfy the eligibility requirements for the program in which they are being enrolled. The transfer of enrollment may be to another program within the same administrative agency or to another agency that administers state or federally funded child care and development programs within that county.

(d) A physical examination and evaluation, including age-appropriate immunization, shall be required prior to, or within six weeks of, enrollment. No standard, rule, or regulation shall require medical examination or immunization for admission to a child care and development program of a child whose parent or guardian files a letter with the governing board of the child care and development program stating that the medical examination or immunization is contrary to his or her religious beliefs, or provide for the exclusion of a child from the program because of a parent or guardian having filed the letter. However, whenever there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child shall be temporarily excluded from the program until the governing board of the child care and development program is satisfied that any contagious or infectious disease does not exist.

1 (e) Regulations formulated and promulgated pursuant to this
2 section shall include the recommendations of the State
3 Department of Health Services relative to health care screening
4 and the provision of health care services. The superintendent shall
5 seek the advice and assistance of these health authorities in
6 situations where service under this chapter includes or requires
7 care of ill children or children with exceptional needs.

8 (f) The superintendent shall establish a fee schedule for
9 families utilizing child care and development services pursuant to
10 this chapter. The income of a recipient of federal supplemental
11 security income benefits pursuant to Title XVI of the Federal
12 Social Security Act (42 U.S.C. Sec. 1381 et seq.) and state
13 supplemental program benefits pursuant to Title XVI of the
14 Federal Social Security Act and Chapter 3 (commencing with
15 Section 12000) of Part 3 of Division 9 of the Welfare and
16 Institutions Code may not be included as income for the purposes
17 of determining the amount of the family fee. The fee schedule shall
18 include, but not be limited to, the following restrictions:

19 (1) No fees shall be assessed for families whose children are
20 enrolled in the state preschool program.

21 (2) A contractor or provider may require parents to provide
22 diapers. A contractor or provider offering field trips either may
23 include the cost of the field trips within the service rate charged to
24 the parent or may charge parents an additional fee. Federal or state
25 money may not be used to reimburse parents for the costs of field
26 trips if those costs are charged as an additional fee. A contractor
27 or provider that charges parents an additional fee for field trips
28 shall inform parents, prior to enrolling the child, that a fee may be
29 charged and that no reimbursement will be available. A contractor
30 or provider may charge parents for field trips or require parents to
31 provide diapers only under the following circumstances:

32 (A) The provider has a written policy that is adopted by the
33 agency's governing board that includes parents in the
34 decisionmaking process regarding both of the following:

35 (i) Whether or not, and how much, to charge for field trip
36 expenses.

37 (ii) Whether or not to require parents to provide diapers.

38 (B) The maximum total of charges per child in a contract year
39 does not exceed twenty-five dollars (\$25).

1 (C) No child is denied participation in a field trip due to the
2 parent's inability or refusal to pay the charge. Adverse action may
3 not be taken against any parent for that inability or refusal.

4 Each contractor or provider shall establish a payment system
5 that prevents the identification of children based on whether or not
6 their parents have paid a field trip charge.

7 Expenses incurred and income received for field trips pursuant
8 to this section shall be reported to the State Department of
9 Education. The income received for field trips shall be reported
10 specifically as restricted income.

11 (g) The superintendent shall establish guidelines for the
12 collection of employer-sponsored child care benefit payments
13 from any parent whose child receives subsidized child care and
14 development services. These guidelines shall provide for the
15 collection of the full amount of the benefit payment, but not to
16 exceed the actual cost of child care and development services
17 provided, notwithstanding the applicable fee based on the fee
18 schedule.

19 (h) The superintendent shall establish guidelines according to
20 which the director or a duly authorized representative of the child
21 care and development program will certify children as eligible for
22 state reimbursement pursuant to this section.

23 (i) Public funds may not be paid directly or indirectly to any
24 agency that does not pay at least the minimum wage to each of its
25 employees.

26 ~~SEC. 12.~~

27 *SEC. 11.* Section 8805 of the Education Code is amended to
28 read:

29 8805. The Legislature finds that an evaluation of plan
30 effectiveness is both desirable and necessary, and accordingly
31 requires the following:

32 (a) No later than January 1 of the year following a full year of
33 operation, each local educational agency or consortium that
34 receives an operational grant under this chapter shall submit a
35 report to the superintendent that includes:

36 (1) An assessment of the effectiveness of that local educational
37 agency or consortium in achieving stated goals in the planning
38 and/or operational phase.

39 (2) Problems encountered in the design and operation of the
40 Healthy Start Support Services for Children Grant Program plan,

1 including identification of any federal, state, or local statute or
2 regulation that will impede program implementation.

3 (3) Recommendations for ways to improve delivery of support
4 services to pupils.

5 (4) The number of pupils who will receive support services
6 who previously have not been served.

7 (5) The potential impact of the program on the local
8 educational agency or the consortium, including any anticipated
9 increase in school retention and achievement rates of pupils who
10 receive support services.

11 (6) An accounting of anticipated local budget savings, if any,
12 resulting from the implementation of the program.

13 (7) Client and practitioner satisfaction.

14 (8) The ability, or anticipated ability, to continue to provide
15 services in the absence of future funding under this chapter, by
16 allocating resources in ways that are different from existing
17 methods.

18 (9) Increased access to services for pupils and their families.

19 (10) The degree of increased collaboration among
20 participating agencies and private partners.

21 (11) If the local educational agency or consortium received
22 certification as a Medi-Cal provider, the extent to which the
23 certification improved access to needed services.

24 (b) Additional annual evaluations may be required as
25 designated by the superintendent.

26 ~~SEC. 13. Section 8957 of the Education Code is amended to~~
27 ~~read:~~

28 ~~8957. (a) It is the intent of the Legislature that at least 50~~
29 ~~percent, but not more than 75 percent, of the actual costs of the~~
30 ~~California State Summer School for the Arts (CSSSA) for each~~
31 ~~fiscal year be financed by state funds. The balance of the operating~~
32 ~~costs shall be financed with fees and private support.~~

33 ~~(b) The board of trustees shall set a tuition fee within a range~~
34 ~~that corresponds to actual program costs. The board of trustees~~
35 ~~may award full or partial scholarships on the basis of need and~~
36 ~~ability. Pupils who are unable to pay all or part of the fee may~~
37 ~~petition the board of trustees for a fee reduction or waiver. The~~
38 ~~State Department of Education, in conjunction with the board of~~
39 ~~trustees, shall promulgate rules and regulations regarding fee~~
40 ~~reduction and waivers, which shall ensure all of the following:~~

~~(1) That, to the degree scholarship funds are available, no talented applicant shall be denied admission solely because of inability to pay all or part of the fee.~~

~~(2) That any public announcement regarding the summer school program include notification that full scholarships are available, and information regarding the procedure for applying for a scholarship award.~~

~~(3) That, pursuant to Section 8953, pupil participation in the summer school program is broadly representative of the socioeconomic and ethnic diversity of the state.~~

~~(c) Subdivision (b) applies only to pupils who are California residents. For pupils who are not California residents, the board of trustees annually shall set a tuition fee that is not less than the total actual costs to the summer school of services per pupil. The total actual costs of services per pupil shall be computed each year for this purpose by dividing the amount of school expenditures for the prior fiscal year by the total pupil population for the prior year.~~

~~(d) The Foundation for the California State Summer School for the Arts, which has been established as a nonprofit foundation to support the CSSSA, may raise funds from the private sector which may be used by the summer school for general program operating costs, scholarships, program augmentation, public relations, recruitment activity, or special projects. Private support may include, but not be limited to, direct grants to the summer school from private corporations or foundations, individual contributions, in-kind contributions, or fundraising benefits conducted by any entity.~~

~~SEC. 14.—~~

SEC. 12. Section 11021 of the Education Code is amended to read:

11021. (a) Pursuant to the criteria approved by the State Board of Education, the Superintendent of Public Instruction shall develop an application inviting local educational agencies to apply to receive funds for qualifying schools, subject to an appropriation of funds for purposes of this section.

(b) Funds shall be distributed and dispersed equitably throughout the state in a manner consistent with the purposes of this chapter and that ensures that qualifying schools located in rural, urban, and suburban areas have access to these programmatic funds.

(c) Priority in the allocation of funding to qualifying schools shall be based upon a combination of the following factors that shall be given equal consideration:

(1) The qualifying school's relative low ranking in comparison to the statewide average percentage of high school graduates who complete the A-F or college preparatory course requirements for admission to the California State University and the University of California with a "C" grade or better.

(2) The qualifying school's relative low ranking in comparison to the statewide average percentage of high school pupils who take the nationally-normed, standardized tests used for college admission decisions.

(3) The qualifying school's relative low ranking in comparison to other schools maintaining the same grades in any of grades 9 to 12, inclusive, of the schoolwide average scores on nationally-normed, standardized tests used for college admission decisions.

(4) The qualifying school's relative low ranking in comparison to other schools in its college participation rate.

(d) Funds allocated to qualifying schools pursuant to this chapter shall be awarded annually by the Superintendent of Public Instruction for a period of up to four years.

(e) Funds allocated pursuant to this section may not exceed one hundred dollars (\$100) per pupil at a qualifying school in any single fiscal year. A qualifying school with less than 200 pupils may request funding of up to twenty thousand dollars (\$20,000).

(f) Funds appropriated pursuant to this chapter may supplement, but may not supplant, any existing program or service provided at a qualifying school that is consistent with this chapter.

(g) No more than 5 percent of the amount that is appropriated to a local educational agency for expenditure at a qualifying school pursuant to this chapter shall be used for administrative costs.

(h) Grant recipients shall ensure that parents or guardians of all 8th grade pupils are notified of the course requirements that are a prerequisite for admission to the California State University and the University of California.

~~SEC. 15.—~~

SEC. 13. Section 11023 of the Education Code is repealed.

~~SEC. 16.—~~

SEC. 14. Section 17912.1 of the Education Code is repealed.

1 ~~SEC. 17.~~—

2 *SEC. 15.* Section 32211 of the Education Code is repealed.

3 ~~SEC. 18.~~—

4 *SEC. 16.* Section 35160.5 of the Education Code is amended to
5 read:

6 35160.5. (a) The governing board of each school district that
7 maintains one or more schools containing any of grades 7 to 12,
8 inclusive, shall, as a condition for the receipt of an inflation
9 adjustment pursuant to Section 42238.1, establish a school district
10 policy regarding participation in extracurricular and cocurricular
11 activities by pupils in grades 7 to 12, inclusive. The criteria, which
12 shall be applied to extracurricular and cocurricular activities, shall
13 ensure that pupil participation is conditioned upon satisfactory
14 educational progress in the previous grading period.

15 (1) For purposes of this subdivision, “extracurricular activity”
16 means a program that has all of the following characteristics:

17 (A) The program is supervised or financed by the school
18 district.

19 (B) Pupils participating in the program represent the school
20 district.

21 (C) Pupils exercise some degree of freedom in either the
22 selection, planning, or control of the program.

23 (D) The program includes both preparation for performance
24 and performance before an audience or spectators.

25 (2) For purposes of this subdivision, an “extracurricular
26 activity” is not part of the regular school curriculum, is not graded,
27 does not offer credit, and does not take place during classroom
28 time.

29 (3) For purposes of this subdivision, a “cocurricular activity”
30 is defined as a program that may be associated with the curriculum
31 in a regular classroom.

32 (4) Any teacher graded or required program or activity for a
33 course that satisfies the entrance requirements for admission to the
34 California State University or the University of California is not
35 an extracurricular or cocurricular activity as defined by this
36 section.

37 (5) For purposes of this subdivision, “satisfactory educational
38 progress” shall include, but not be limited to, the following:

1 (A) Maintenance of minimum passing grades, which is defined
2 as at least a 2.0 grade point average in all enrolled courses on a 4.0
3 scale.

4 (B) Maintenance of minimum progress toward meeting the
5 high school graduation requirements prescribed by the governing
6 board.

7 (6) For purposes of this subdivision, “previous grading
8 period” does not include any grading period in which the pupil
9 was not in attendance for all, or a majority of, the grading period
10 due to absences excused by the school for reasons such as serious
11 illness or injury, approved travel, or work. In that event, “previous
12 grading period” is deemed to mean the grading period
13 immediately prior to the grading period or periods excluded
14 pursuant to this paragraph.

15 (7) A program that has, as its primary goal, the improvement
16 of academic or educational achievements of pupils is not an
17 extracurricular or cocurricular activity as defined by this section.

18 (8) The governing board of each school district may adopt, as
19 part of its policy established pursuant to this subdivision,
20 provisions that would allow a pupil who does not achieve
21 satisfactory educational progress, as defined in paragraph (4), in
22 the previous grading period to remain eligible to participate in
23 extracurricular and cocurricular activities during a probationary
24 period. The probationary period shall not exceed one semester in
25 length, but may be for a shorter period of time, as determined by
26 the governing board of the school district. A pupil who does not
27 achieve satisfactory educational progress, as defined in paragraph
28 (4), during the probationary period shall not be allowed to
29 participate in extracurricular and cocurricular activities in the
30 subsequent grading period.

31 (9) Nothing in this subdivision shall preclude the governing
32 board of a school district from imposing a more stringent academic
33 standard than that imposed by this subdivision. If the governing
34 board of a school district imposes a more stringent academic
35 standard, the governing board shall establish the criteria for
36 participation in extracurricular and cocurricular activities at a
37 meeting open to the public pursuant to Section 35145.

38 The governing board of each school district shall annually
39 review the school district policies adopted pursuant to the
40 requirements of this section.

(b) (1) On or before July 1, 1994, the governing board of each school district shall, as a condition for the receipt of school apportionments from the state school fund, adopt rules and regulations establishing a policy of open enrollment within the district for residents of the district. This requirement does not apply to any school district that has only one school or any school district with schools that do not serve any of the same grade levels.

(2) The policy shall include all of the following elements:

(A) It shall provide that the parent or guardian of each schoolage child who is a resident in the district may select the schools the child shall attend, irrespective of the particular locations of his or her residence within the district, except that school districts shall retain the authority to maintain appropriate racial and ethnic balances among their respective schools at the school districts' discretion or as specified in applicable court-ordered or voluntary desegregation plans.

(B) It shall include a selection policy for any school that receives requests for admission in excess of the capacity of the school that ensures that selection of pupils to enroll in the school is made through a random, unbiased process that prohibits an evaluation of whether any pupil should be enrolled based upon his or her academic or athletic performance. For purposes of this subdivision, the governing board of the school district shall determine the capacity of the schools in its district. However, school districts may employ existing entrance criteria for specialized schools or programs if the criteria are uniformly applied to all applicants. This subdivision shall not be construed to prohibit school districts from using academic performance to determine eligibility for, or placement in, programs for gifted and talented pupils established pursuant to Chapter 8 (commencing with Section 52200) of Part 28.

(C) It shall provide that no pupil who currently resides in the attendance area of a school shall be displaced by pupils transferring from outside the attendance area.

(3) Notwithstanding the requirement of subparagraph (B) of paragraph (2) that the policy include a selection policy for any school that receives requests for admission in excess of the capacity of the school that ensures that the selection is made through a random, unbiased process, the policy may include any of the following elements:

(A) It may provide that special circumstances exist that might be harmful or dangerous to a particular pupil in the current attendance area of the pupil, including, but not limited to, threats of bodily harm or threats to the emotional stability of the pupil, that serve as a basis for granting a priority of attendance outside the current attendance area of the pupil. A finding of harmful or dangerous special circumstances shall be based upon either of the following:

(i) A written statement from a representative of the appropriate state or local agency, including, but not limited to, a law enforcement official or a social worker, or properly licensed or registered professionals, including, but not limited to, psychiatrists, psychologists, or marriage and family therapists.

(ii) A court order, including a temporary restraining order and injunction, issued by a judge.

A finding of harmful or dangerous special circumstances pursuant to this subparagraph may be used by a school district to approve transfers within the district to schools that have been deemed by the school district to be at capacity and otherwise closed to transfers that are not based on harmful or dangerous special circumstances.

(B) It may provide that any pupil attending a school prior to July 1, 1994, may be considered a current resident of that school for purposes of this section until the pupil is promoted or graduates from that school.

(C) It may provide that no pupil who was on a waiting list for a school or specialized program, on or before July 1, 1994, pursuant to a then-existing district policy on transfers within the district, shall be displaced by pupils transferring after July 1, 1994, from outside the attendance area, as long as the continued maintenance on a waiting list remains consistent with the former policy.

(D) It may provide that schools receiving requests for admission shall give priority for attendance to siblings of pupils already in attendance in that school and to pupils whose parent or legal guardian is assigned to that school as his or her primary place of employment.

(E) It may include a process by which the school district informs parents or guardians that certain schools or grade levels within a school are currently, or are likely to be, at capacity and,

1 therefore, those schools or grade levels are unable to accommodate
2 any new pupils under the open enrollment policy.

3 (4) It is the intent of the Legislature that, upon the request of the
4 pupil's parent or guardian and demonstration of financial need,
5 each school district provide transportation assistance to the pupil
6 to the extent that the district otherwise provides transportation
7 assistance to pupils.

8 ~~SEC. 19.—~~

9 *SEC. 17.* Section 35256 of the Education Code is amended to
10 read:

11 35256. School Accountability Report Card

12 The governing board of each school district maintaining an
13 elementary or secondary school shall by September 30, 1989, or
14 the beginning of the school year develop and cause to be
15 implemented for each school in the school district a School
16 Accountability Report Card.

17 (a) The School Accountability Report Card shall include, but
18 is not limited to, the conditions listed in Education Code Section
19 33126.

20 (b) The Governing Board of each school district shall annually
21 issue a School Accountability Report Card for each school in the
22 school district, publicize these reports, and notify parents or
23 guardians of students that a copy will be provided upon request.

24 ~~SEC. 20.— Section 35517 is added to the Education Code, to~~
25 ~~read:~~

26 ~~35517. “Uninhabited territory” means territory where fewer~~
27 ~~than 12 persons who are registered to vote for at least 54 days~~
28 ~~reside at the time of the filing of a petition or resolution for a~~
29 ~~change in school district boundaries.~~

30 ~~SEC. 21.— Section 35534 of the Education Code is amended to~~
31 ~~read:~~

32 ~~35534.— Except as provided in Sections 35535 and 35536 and~~
33 ~~subject to compliance with Section 54900 of the Government~~
34 ~~Code, any action to reorganize a school district shall be effective~~
35 ~~for all purposes on July 1 of the calendar year following the~~
36 ~~calendar year in which the action is completed.~~

37 ~~SEC. 22.— Section 35555 of the Education Code is amended to~~
38 ~~read:~~

39 ~~35555.— The reorganization of any school district or districts~~
40 ~~shall not affect the classification of certificated employees already~~

~~employed by any school district affected. These employees shall have the same status with respect to their classification by the district, including time served as probationary employees of the district, after the reorganization as they had prior to it. If a reorganization results in the school or other place in which an employee is employed being maintained by another district, the employee, if a permanent employee of the district which formerly maintained the school or other place of employment, shall be employed as a permanent employee of the district which thereafter maintains the school or other place of employment, unless the employee elects prior to February 1 of the year in which the action will become effective for all purposes to continue in the employ of the first district.~~

~~If the employee is a probationary employee of the district which formerly maintained the school or other place of employment, he or she shall be employed by the district which thereafter maintains the school or other place of employment, unless the probationary employee is terminated by the district pursuant to Section 44929.21, 44948, or 44955, and, if not so terminated, his or her status with respect to classification by the district shall be the same as it would have been had the school or other place of employment continued to be maintained by the district which formerly maintained it. As used in this paragraph, "the school or other place in which an employee is employed" and all references thereto, includes, but is not limited to, the school services or school program which, as a result of any reorganization of a school district, will be provided by another district, regardless of whether any particular building or buildings in which the schoolwork or school program was conducted is physically located in the new district and regardless of whether any new district resulting from a reorganization elects to provide for the education of its pupils by contracting with another school district until the new district constructs its own facilities.~~

~~SEC. 23.—Section 35566 of the Education Code is amended to read:~~

~~35566. Notwithstanding any provisions of this article, exchanges of property tax revenues between school districts as a result of reorganization, in which at least one of the school districts is a basic aid school district, shall be determined pursuant to subdivision (i) of Section 99 of the Revenue and Taxation Code.~~

1 ~~SEC. 24.—Section 35710 of the Education Code is amended to~~
2 ~~read:~~

3 ~~35710.—(a) For all other petitions to transfer territory, if the~~
4 ~~county committee finds that the conditions enumerated in~~
5 ~~paragraphs (1) to (10), inclusive, of subdivision (a) of Section~~
6 ~~35753 are substantially met, the county committee may approve~~
7 ~~the petition and, if approved, shall so notify the county~~
8 ~~superintendent of schools who shall call an election in the territory~~
9 ~~of the districts as determined by the county committee, to be~~
10 ~~conducted at the next regular election in the manner described in~~
11 ~~either Part 4 (commencing with Section 5000) of this code or~~
12 ~~Division 4 (commencing with Section 4000) of the Elections~~
13 ~~Code.~~

14 ~~(b) This section does not apply to a petition to transfer~~
15 ~~uninhabited territory.~~

16 ~~SEC. 25.—Section 35710.1 is added to the Education Code, to~~
17 ~~read:~~

18 ~~35710.1.—Notwithstanding any other provision of law, an~~
19 ~~election may not be called if the election area, as determined~~
20 ~~pursuant to Section 35732, is uninhabited territory as defined in~~
21 ~~Section 35517. The only manner of approving and granting a~~
22 ~~petition to transfer uninhabited territory is the manner set forth in~~
23 ~~Section 35709.~~

24 ~~SEC. 26.—Section 35722 of the Education Code is amended to~~
25 ~~read:~~

26 ~~35722.—Following the public hearing, or last public hearing,~~
27 ~~required by Section 35720.5 or subdivision (c) of Section 35721,~~
28 ~~the county committee may adopt a final recommendation for~~
29 ~~unification or other reorganization and shall transmit that~~
30 ~~recommendation together with the petition filed under subdivision~~
31 ~~(a) or (b) of Section 35721 or the resolution filed under subdivision~~
32 ~~(c) of Section 35721, if any, to the State Board of Education for~~
33 ~~hearing as provided in Article 4 (commencing with Section~~
34 ~~35750); or shall transmit the petition to the State Board of~~
35 ~~Education and order the reorganization granted if the requirements~~
36 ~~of Section 35709 are satisfied; or shall transmit the petition to the~~
37 ~~State Board of Education and order that an election be held if the~~
38 ~~requirements of Section 35710 are satisfied.~~

39 ~~SEC. 27.—Section 35735.3 of the Education Code is repealed.~~

1 ~~SEC. 28.—Section 35738 of the Education Code is amended to~~
2 ~~read:~~

3 ~~35738.—Plans and recommendations may include a method of~~
4 ~~dividing the bonded indebtedness other than the method specified~~
5 ~~in paragraphs (1) and (2) of subdivision (b) of Section 35576 for~~
6 ~~the purpose of providing greater equity in the division.~~
7 ~~Consideration may be given to assessed valuation, number of~~
8 ~~pupils, property values, and other matters which the petitioners or~~
9 ~~county committee deems pertinent.~~

10 ~~SEC. 29.—Section 35753 of the Education Code is amended to~~
11 ~~read:~~

12 ~~35753.—(a) The State Board of Education may approve~~
13 ~~proposals for the reorganization of districts, if the board has~~
14 ~~determined, with respect to the proposal and the resulting districts,~~
15 ~~that all of the following conditions are substantially met:~~

16 ~~(1) The reorganized districts will be adequate in terms of~~
17 ~~number of pupils enrolled.~~

18 ~~(2) The districts are each organized on the basis of a substantial~~
19 ~~community identity.~~

20 ~~(3) The proposal will result in an equitable division of property~~
21 ~~and facilities of the original district or districts.~~

22 ~~(4) The reorganization of the districts will promote or preserve~~
23 ~~racial or ethnic integration.~~

24 ~~(5) Any increase in costs to the state that are a result of the~~
25 ~~proposed reorganization will be insignificant and otherwise~~
26 ~~incidental to the reorganization.~~

27 ~~(6) The proposed reorganization will not significantly disrupt~~
28 ~~the educational programs in the proposed districts and districts~~
29 ~~affected by the proposed reorganization and will continue to~~
30 ~~promote sound education performance in those districts.~~

31 ~~(7) Any increase in school facilities costs that are a result of the~~
32 ~~proposed reorganization will be insignificant and otherwise~~
33 ~~incidental to the reorganization.~~

34 ~~(8) The proposed reorganization is primarily designed for~~
35 ~~purposes other than to significantly increase property values.~~

36 ~~(9) The proposed reorganization will continue to promote~~
37 ~~sound fiscal management and will not cause a substantial negative~~
38 ~~effect on the fiscal status of the proposed district or any existing~~
39 ~~district affected by the proposed reorganization.~~

1 ~~(10) Any other criteria as the board may, by regulation,~~
2 ~~prescribe.~~

3 ~~(b) The State Board of Education may approve a proposal for~~
4 ~~the reorganization of school districts if the board determines that~~
5 ~~it is not practical or possible to apply the criteria of this section~~
6 ~~literally, and that the circumstances with respect to the proposals~~
7 ~~provide an exceptional situation sufficient to justify approval of~~
8 ~~the proposals.~~

9 ~~SEC. 30. Section 35756 of the Education Code is amended to~~
10 ~~read:~~

11 ~~35756. The county superintendent of schools, within 35 days~~
12 ~~after receiving the notification provided by Section 35755, shall~~
13 ~~call an election, in the manner prescribed in Part 4 (commencing~~
14 ~~with Section 5000) of this code or Division 4 (commencing with~~
15 ~~Section 4000) of the Elections Code, to be conducted at the next~~
16 ~~available regular election, in the territory of districts as determined~~
17 ~~by the State Board of Education.~~

18 ~~SEC. 31. Section 35765 of the Education Code is amended to~~
19 ~~read:~~

20 ~~35765. After the board of supervisors receives a proper~~
21 ~~certificate of election or other proper evidence that an action to~~
22 ~~organize or reorganize school districts has been approved as~~
23 ~~provided by law, the board of supervisors shall make an order to~~
24 ~~create, change, or terminate school districts as may be required by~~
25 ~~the action and establish or reestablish the boundaries of the~~
26 ~~districts affected by the action. The order shall be entered in the~~
27 ~~county's record of school districts.~~

28 ~~If the action results in the creation of a district or a change of~~
29 ~~district boundaries of the type described in Section 54900 of the~~
30 ~~Government Code, the order of the board of supervisors shall~~
31 ~~include the legal description of each district created or changed in~~
32 ~~the action and, immediately after making the order, the board of~~
33 ~~supervisors shall cause a copy of the order, the statement prepared~~
34 ~~pursuant to Section 54900 of the Government Code, and a map or~~
35 ~~plat indicating the boundaries established or reestablished for each~~
36 ~~district affected by the order to be filed as required by Chapter 8~~
37 ~~(commencing with Section 54900) of Part 1 of Division 2, Title 5~~
38 ~~of the Government Code and shall submit a copy of the statement~~
39 ~~prepared pursuant to Section 54900 of the Government Code and~~
40 ~~the map or plat to the Superintendent of Public Instruction and the~~

~~county superintendent of schools of the county in which the district is located.~~

~~SEC. 32.~~

SEC. 18. Section 39831.5 of the Education Code is amended to read:

39831.5. (a) All pupils in prekindergarten, kindergarten, and grades 1 to 12, inclusive, in public or private school who are transported in a schoolbus or school pupil activity bus shall receive instruction in schoolbus emergency procedures and passenger safety. The county superintendent of schools, superintendent of the school district, or owner/operator of a private school, as applicable, shall ensure that the instruction is provided as follows:

(1) Upon registration, the parents or guardians of all pupils not previously transported in a schoolbus or school pupil activity bus and who are in prekindergarten, kindergarten, and grades 1 to 6, inclusive, shall be provided with written information on schoolbus safety. The information shall include, but not be limited to, all of the following:

- (A) A list of schoolbus stops near each pupil's home.
- (B) General rules of conduct at schoolbus loading zones.
- (C) Red light crossing instructions.
- (D) Schoolbus danger zone.
- (E) Walking to and from schoolbus stops.

(2) At least once in each school year, all pupils in prekindergarten, kindergarten, and grades 1 to 8, inclusive, who receive home-to-school transportation shall receive safety instruction that includes, but is not limited to, proper loading and unloading procedures, including escorting by the driver, how to safely cross the street, highway, or private road, instruction on the use of passenger restraint systems, as described in paragraph (3), proper passenger conduct, bus evacuation, and location of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit. As part of the instruction, pupils shall evacuate the schoolbus through emergency exit doors.

(3) Instruction on the use of passenger restraint systems, when a passenger restraint system is installed, shall include, but not be limited to, all of the following:

- (A) Proper fastening and release of the passenger restraint system.

1 (B) Acceptable placement of passenger restraint systems on
2 pupils.

3 (C) Times at which the passenger restraint systems should be
4 fastened and released.

5 (D) Acceptable placement of the passenger restraint systems
6 when not in use.

7 (4) Prior to departure on a school activity trip, all pupils riding
8 on a schoolbus or school pupil activity bus shall receive safety
9 instruction that includes, but is not limited to, location of
10 emergency exits, and location and use of emergency equipment.
11 Instruction also may include responsibilities of passengers seated
12 next to an emergency exit.

13 (b) The following information shall be documented each time
14 the instruction required by paragraph (2) of subdivision (a) is
15 given:

16 (1) Name of school district, county office of education, or
17 private school.

18 (2) Name and location of school.

19 (3) Date of instruction.

20 (4) Names of supervising adults.

21 (5) Number of pupils participating.

22 (6) Grade levels of pupils.

23 (7) Subjects covered in instruction.

24 (8) Amount of time taken for instruction.

25 (9) Bus driver's name.

26 (10) Bus number.

27 (11) Additional remarks.

28 The information recorded pursuant to this subdivision shall
29 remain on file at the district or county office, or at the school, for
30 one year from the date of the instruction, and shall be subject to
31 inspection by the Department of the California Highway Patrol.

32 ~~SEC. 33.—~~

33 *SEC. 19.* Section 41344 of the Education Code is amended to
34 read:

35 41344. (a) If, as the result of an audit or review, a local
36 educational agency is required to repay an apportionment
37 significant audit exception, the Superintendent of Public
38 Instruction and the Director of Finance, or their designees, shall
39 jointly establish a plan for repayment of state school funds that the
40 local educational agency received on the basis of average daily

1 attendance, or other data, that did not comply with statutory or
2 regulatory requirements that were conditions of the
3 apportionments. A local educational agency must request a
4 repayment plan within 90 days of receiving the final audit report
5 or review, within 30 days of receiving a final determination
6 regarding an appeal pursuant to subdivision (d), or, in the absence
7 of an appeal pursuant to subdivision (d), within 30 days of
8 receiving a determination of a summary review pursuant to
9 subdivision (d) of Section 41344.1. At the time the local
10 educational agency is notified, the Controller shall also be notified
11 of the repayment plan. The repayment plan shall be established in
12 accordance with the following:

13 (1) The Controller shall withhold the disallowed amount at the
14 next principal apportionment or pursuant to paragraph (2), unless
15 subdivision (d) or subdivision (d) of Section 41344.1 applies, in
16 which case the disallowed amount shall be withheld, at the next
17 principal apportionment or pursuant to paragraph (2) following
18 the determination regarding the appeal or summary appeal. In
19 calculating the disallowed amount, the Controller shall determine
20 the total amount of overpayment received by the local educational
21 agency on the basis of average daily attendance, or other data,
22 reported by the local educational agency that did not comply with
23 one or more statutory or regulatory requirements that are
24 conditions of apportionment.

25 (2) If the Superintendent of Public Instruction and the Director
26 of the Department of Finance concur that repayment of the full
27 liability in the current fiscal year would constitute a severe
28 financial hardship for the local agency, they may approve a
29 repayment plan of equal annual payments over a period of up to
30 eight years. The repayment plan shall include interest on each
31 year's outstanding balance at the rate earned on the state's
32 short-term pooled investment fund during that year. The
33 Superintendent of Public Instruction and the Director of the
34 Department of Finance shall jointly establish this repayment plan.
35 The Controller shall withhold amounts pursuant to the repayment
36 plan.

37 (3) If the Superintendent of Public Instruction and the Director
38 of the Department of Finance do not jointly establish a repayment
39 plan, the State Controller shall withhold the entire disallowed



1 amount determined pursuant to paragraph (1) at the next principal
2 apportionment.

3 (b) (1) For purposes of computing average daily attendance
4 pursuant to Section 42238.5, a local educational agency's prior
5 fiscal year average daily attendance shall be reduced by an amount
6 equal to any average daily attendance disallowed in the current
7 year, by an audit or review, as defined in subdivision (e).

8 (2) Commencing with the 1999–2000 fiscal year, this
9 subdivision may not result in a local educational agency repaying
10 more than the value of the average daily attendance disallowed in
11 the audit exception plus interest and other penalties or reductions
12 in apportionments as provided by existing law.

13 (c) Notwithstanding any other provision of law, this section
14 may not be waived under any authority set forth in this code except
15 as provided in this section or Section 41344.1.

16 (d) Within 60 days of the date on which a local educational
17 agency receives a final audit report resulting from an audit or
18 review or within 30 days of receiving a determination of a
19 summary review pursuant to subdivision (d) Section 41344.1, a
20 local educational agency may appeal a finding contained in the
21 final report, pursuant to Section 41344.1. Within 90 days of the
22 date on which the appeal is received by the panel, a hearing shall
23 be held at which the local educational agency may present
24 evidence or arguments if the local educational agency believes that
25 the final report contains any finding that was based on errors of fact
26 or interpretation of law. A repayment schedule may not commence
27 until the panel reaches a determination regarding the appeal. If the
28 panel determines that the local educational agency is correct in its
29 assertion, in whole or in part, the allowable portion of any
30 apportionment payment that was withheld shall be paid at the next
31 principal apportionment.

32 (e) As used in this section, “audit or review” means an audit
33 conducted by the Controller’s office, an annual audit conducted by
34 a certified public accountant or a public accountant firm pursuant
35 to Section 41020, and an audit or review conducted by a
36 governmental agency that provided the local education agency
37 with an opportunity to provide a written response.

38 ~~SEC. 34.—~~

39 *SEC. 20.* Section 41402 of the Education Code is amended to
40 read:



1 41402. For the purposes of this article, the maximum ratios of
2 administrative employees to each 100 teachers in the various types
3 of school districts shall be as follows:

4 (a) In elementary school districts—9.

5 (b) In unified school districts—8.

6 (c) In high school districts—7.

7 This section does not apply to a school district which has only
8 one administrator.

9 ~~SEC. 35.—~~

10 *SEC. 21.* Section 41403 of the Education Code is amended to
11 read:

12 41403. (a) For purposes of determining compliance with
13 Section 41402, a school district shall determine, for each current
14 fiscal year, to two decimal points, the following:

15 (1) The total number of administrative employees, except those
16 serving in positions that are supported by categorical grants from
17 any source and are in programs that require specific
18 teacher/administrator ratios, or that are supported by federal
19 funds. As to those serving in positions that are not supported
20 completely by these categorical grants from any source or
21 completely by federal funds, the number of employees reported
22 shall include the full-time equivalent of all fractional time
23 attributable to that time not supported by categorical grants or
24 federal funds.

25 (2) The total number of teachers except those serving in
26 positions that are supported by federal funds or by categorical
27 grants from any source and are in programs that require specific
28 teacher/administrator ratios. As to those serving in positions that
29 are not supported completely by these categorical grants from any
30 source or completely by federal funds, the number of employees
31 reported shall include the full-time equivalent of all fractional time
32 attributable to that time not supported by categorical grants or
33 federal funds. Substitute teachers may be counted as teachers only
34 if the employee for whom they are substituting is not counted. In
35 no event shall the number of full-time equivalent teachers reported
36 be greater than the number of full-time equivalent teaching
37 positions in the district.

38 (3) The total maximum number of administrative employees
39 that should be employed by the district based upon the application

1 of the appropriate ratio prescribed by Section 41402 to the number
2 of teachers determined pursuant to paragraph (2).

3 (4) The difference between the number of administrative
4 employees should be employed by the district pursuant to
5 paragraph (3) and the total number of administrative employees
6 pursuant to paragraph (1).

7 (b) A district is in compliance with Section 41402 if the
8 difference determined pursuant to paragraph (4) of subdivision (a)
9 is negative, or less than a positive 0.50.

10 (c) The number of employees pursuant to paragraphs (1), (2),
11 (3), and (4) of subdivision (a) shall include the full-time equivalent
12 of all fractional time of those employees.

13 (d) For purposes of determining the compliance in the San
14 Diego City School District, the number of employees and the
15 full-time equivalent of all of the fractional time of employees
16 serving the district in positions mandated as the result of the
17 district's court-ordered integration plan is excluded from the
18 numbers identified pursuant to subdivision (a).

19 An individual may not be counted as more than one full-time
20 equivalent employee unless the individual is employed on a
21 part-time basis in adult education, driver education, or vocational
22 education, or any part-time or additional teaching assignment, in
23 addition to his or her regular full-time assignment.

24 ~~SEC. 36.—~~

25 *SEC. 22.* Section 41404 of the Education Code is repealed.

26 ~~SEC. 37.—~~

27 *SEC. 23.* Section 41406 of the Education Code is repealed.

28 ~~SEC. 38.—~~

29 *SEC. 24.* Section 41407 of the Education Code is repealed.

30 ~~SEC. 39.—~~

31 *SEC. 25.* Section 41975 of the Education Code is amended to
32 read:

33 41975. Apportionments and allowances to a school district
34 from Section A of the State School Fund in a fiscal year may not
35 be less than the product of one hundred twenty dollars (\$120)
36 multiplied by the average daily attendance of the district in the
37 preceding fiscal year, or two thousand four hundred dollars
38 (\$2,400), whichever is greater.

39 ~~SEC. 40.— Section 42238 of the Education Code is amended to~~
40 read:

~~42238. (a) For the 1984-85 fiscal year and each fiscal year thereafter, the county superintendent of schools shall determine a revenue limit for each school district in the county pursuant to this section.~~

~~(b) The base revenue limit for the current fiscal year shall be determined by adding to the base revenue limit for the prior fiscal year the following amounts:~~

~~(1) The inflation adjustment specified in Section 42238.1.~~

~~(2) For the 1995-96 fiscal year, the equalization adjustment specified in Section 42238.4.~~

~~(3) For the 1996-97 fiscal year, the equalization adjustments specified in Sections 42238.41, 42238.42, and 42238.43.~~

~~(4) For the 1985-86 fiscal year, the amount received per unit of average daily attendance in the 1984-85 fiscal year pursuant to Section 42238.7.~~

~~(5) For the 1985-86, 1986-87, and 1987-88 fiscal years, the amount per unit of average daily attendance received in the prior fiscal year pursuant to Section 42238.8.~~

~~(6) For the 2003-04 fiscal year, the equalization adjustments specified in Sections 42238.44 and 42238.46.~~

~~(c) Except for districts subject to subdivision (d), the base revenue limit computed pursuant to subdivision (b) shall be multiplied by the district average daily attendance computed pursuant to Section 42238.5.~~

~~(d) (1) For districts for which the number of units of average daily attendance determined pursuant to Section 42238.5 is greater for the current fiscal year than for the 1982-83 fiscal year, compute the following amount, in lieu of the amount computed pursuant to subdivision (c):~~

~~(A) Multiply the base revenue limit computed pursuant to subdivision (c) by the average daily attendance computed pursuant to Section 42238.5 for the 1982-83 fiscal year.~~

~~(B) Multiply the lesser of the amount in subdivision (c) or 1.05 times the statewide average base revenue limit per unit of average daily attendance for districts of similar type for the current fiscal year by the difference between the average daily attendance computed pursuant to Section 42238.5 for the current and 1982-83 fiscal years.~~

~~(C) Add the amounts in subparagraphs (A) and (B).~~

~~(2) This subdivision shall become inoperative on July 1, 1998.~~

~~(e) For districts electing to compute units of average daily attendance pursuant to paragraph (3) of subdivision (a) of Section 42238.5, the amount computed pursuant to Article 4 (commencing with Section 42280) shall be added to the amount computed in subdivision (e) or (d), as appropriate.~~

~~(f) For the 1984-85 fiscal year only, the county superintendent shall reduce the total revenue limit computed in this section by the amount of the decreased employer contributions to the Public Employees' Retirement System resulting from enactment of Chapter 330 of the Statutes of 1982, offset by any increase in those contributions, as of the 1983-84 fiscal year, resulting from subsequent changes in employer contribution rates.~~

~~(g) The reduction required by subdivision (f) shall be calculated as follows:~~

~~(1) Determine the amount of employer contributions that would have been made in the 1983-84 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately prior to the enactment of Chapter 330 of the Statutes of 1982 were in effect during the 1983-84 fiscal year.~~

~~(2) Subtract from the amount determined in paragraph (1) the greater of subparagraph (A) or (B):~~

~~(A) The amount of employer contributions that would have been made in the 1983-84 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately after the enactment of Chapter 330 of the Statutes of 1982 were in effect during the 1983-84 fiscal year.~~

~~(B) The actual amount of employer contributions made to the Public Employees' Retirement System in the 1983-84 fiscal year.~~

~~(3) For purposes of this subdivision, employer contributions to the Public Employees' Retirement System for any of the following shall be excluded from the calculation specified above:~~

~~(A) Positions supported totally by federal funds that were subject to supplanting restrictions.~~

~~(B) Positions supported by funds received pursuant to Section 42243.6.~~

~~(C) Positions supported, to the extent of employer contributions not exceeding twenty five thousand dollars (\$25,000) by any single educational agency, from a revenue source determined on the basis of equity to be properly excludable from~~

1 ~~the provisions of this subdivision by the Superintendent of Public~~
2 ~~Instruction with the approval of the Director of Finance.~~

3 ~~(4) For accounting purposes, the reduction made by this~~
4 ~~subdivision may be reflected as an expenditure from appropriate~~
5 ~~sources of revenue as directed by the Superintendent of Public~~
6 ~~Instruction.~~

7 ~~(h) The Superintendent of Public Instruction shall apportion to~~
8 ~~each school district the amount determined in this section less the~~
9 ~~sum of:~~

10 ~~(1) The district's property tax revenue received pursuant to~~
11 ~~Chapter 3 (commencing with Section 75) and Chapter 6~~
12 ~~(commencing with Section 95) of Part 0.5 of the Revenue and~~
13 ~~Taxation Code.~~

14 ~~(2) The amount, if any, received pursuant to Part 18.5~~
15 ~~(commencing with Section 38101) of the Revenue and Taxation~~
16 ~~Code.~~

17 ~~(3) The amount, if any, received pursuant to Chapter 3~~
18 ~~(commencing with Section 16140) of the Government Code.~~

19 ~~(4) Prior years' taxes and taxes on the unsecured roll.~~

20 ~~(5) Fifty percent of the amount received pursuant to Section~~
21 ~~41603.~~

22 ~~(6) The amount of motor vehicle license fees distributed~~
23 ~~pursuant to Section 11003.4 of the Revenue and Taxation Code.~~

24 ~~(7) The amount, if any, received pursuant to any provision of~~
25 ~~the Community Redevelopment Law (Part 1 (commencing with~~
26 ~~Section 33000) of Division 24 of the Health and Safety Code),~~
27 ~~except for any amount received pursuant to Section 33401 or~~
28 ~~33676 of the Health and Safety Code that is used for land~~
29 ~~acquisition, facility construction, reconstruction, or remodeling,~~
30 ~~or deferred maintenance, except for any amount received pursuant~~
31 ~~to Section 33492.15, paragraph (4) of subdivision (a) of Section~~
32 ~~33607.5, or Section 33607.7 of the Health and Safety Code that is~~
33 ~~allocated exclusively for educational facilities.~~

34 ~~(8) For a unified school district, other than a unified school~~
35 ~~district that has converted all of its schools to charter status~~
36 ~~pursuant to Section 47606, the amount of statewide average~~
37 ~~general purpose funding per unit of average daily attendance~~
38 ~~received by school districts for each of four grade level ranges, as~~
39 ~~computed by the State Department of Education pursuant to~~
40 ~~Section 47633, multiplied by the average daily attendance, in~~

1 corresponding grade level ranges, of any pupils who attend charter
2 schools funded pursuant to Chapter 6 (commencing with Section
3 47630) of Part 26.8 for which the district is the sponsoring local
4 educational agency, as defined in Section 47632, and who reside
5 in and would otherwise have been eligible to attend a noncharter
6 school of the district.

7 ~~(i) (1) The transfer of seventh and eighth grade pupils between~~
8 ~~an elementary school district and a high school district may not~~
9 ~~result in the receiving district receiving a revenue limit~~
10 ~~apportionment for those pupils that exceeds 105 percent of the~~
11 ~~statewide average revenue limit for the type and size of the~~
12 ~~receiving school district.~~

13 ~~(2) The transfer of seventh and eighth grade pupils between an~~
14 ~~elementary school district and a high school district triggers the~~
15 ~~recomputation, pursuant to Section 35735.1 of the base revenue~~
16 ~~limit per unit of average daily attendance of the district receiving~~
17 ~~the seventh and eighth grade pupils, except that the computations~~
18 ~~described in paragraphs (2) and (3) of subdivision (a) of Section~~
19 ~~35735.1 do not apply to a recomputation performed pursuant to~~
20 ~~this paragraph.~~

21 ~~SEC. 41. Section 42239.15 of the Education Code is amended~~
22 ~~to read:~~

23 ~~42239.15. (a) For the 2000-01 fiscal year and each fiscal~~
24 ~~year thereafter, each school district and charter school is eligible~~
25 ~~for reimbursement for hours of pupil attendance claimed for~~
26 ~~intensive algebra instruction academies offered pursuant to~~
27 ~~Chapter 18 (commencing with Section 53091) of Part 28 in an~~
28 ~~amount up to 6 percent of the total enrollment in grades 7 and 8 of~~
29 ~~the school district or charter school for the prior fiscal year~~
30 ~~multiplied by 120 hours, multiplied by the hourly rate for the~~
31 ~~current fiscal year determined pursuant to subdivision (c) of~~
32 ~~Section 42239. This amount shall be provided in addition to the~~
33 ~~amount provided pursuant to Section 42239.~~

34 ~~(b) Commencing with the 2002-03 fiscal year, the~~
35 ~~Superintendent of Public Instruction shall allocate a minimum of~~
36 ~~seven thousand four hundred and six dollars (\$7,406) for~~
37 ~~supplemental summer school programs established pursuant to~~
38 ~~Chapter 18 (commencing with Section 53091) of Part 28 from~~
39 ~~funds appropriated therefor in each school district for which the~~
40 ~~prior fiscal year enrollment was less than 333 pupils and that~~

~~offered at least 1,500 hours of supplemental summer school instruction. A school district for which the prior fiscal year enrollment was less than 333 pupils that offered less than 1,500 hours of supplemental summer school offerings shall receive a proportionately reduced allocation.~~

~~(c) Minimum allocations for supplemental summer school programs required pursuant to subdivision (b) shall be adjusted for inflation in the 2003–04 fiscal year, and each fiscal year thereafter, in accordance with Section 42238.1.~~

~~(d) When expending funds received pursuant to this section, a school district shall give first priority for the purpose specified in paragraph (1) of subdivision (d) of Section 53092.~~

~~SEC. 42.—~~

SEC. 26. Section 44505 of the Education Code is amended to read:

44505. (a) Between July 1, 1999, and June 30, 2000, a school district may notify the Superintendent of Public Instruction that it plans to implement, commencing July 1, 2000, a Peer Assistance and Review Program for Teachers pursuant to this article. Upon receipt of the notification by the school district, the Superintendent of Public Instruction shall apportion to the school district two thousand eight hundred dollars (\$2,800) or an amount equal to the number of mentor teachers that the state calculated the school district is entitled to in the 1999–2000 fiscal year pursuant to Article 4 (commencing with Section 44490) multiplied by two thousand eight hundred dollars (\$2,800), whichever is greater.

(b) A school district that notifies the Superintendent of Public Instruction that it plans to implement a Peer Assistance and Review Program for Teachers by July 1, 2000, pursuant to subdivision (a), shall certify to the Superintendent of Public Instruction that it has implemented a program by August 1, 2000. In addition to the certification, the Superintendent of Public Instruction may request a copy of the signature page of the collective bargaining agreement implementing the program required pursuant to subdivision (a) of Section 44503. A school district that fails to provide the required certification is not eligible to receive an apportionment for the Peer Assistance and Review Program for Teachers pursuant to subdivision (a) of this section or subdivision (a) of Section 44498 in the 2000–01 school year, or in any year thereafter. The school district, however, may be eligible

1 to receive an apportionment for the Peer Assistance and Review
2 Program for Teachers pursuant to subdivision (c) of this section
3 and subdivision (a) of Section 44498 in the 2000–01 school year,
4 and in each year thereafter, if the school district complies with the
5 requirements set forth in subdivisions (c) and (d).

6 (c) Between July 1, 2000, and May 31, 2001, a school district
7 may notify the Superintendent of Public Instruction that it plans to
8 implement, commencing July 1, 2001, a Peer Assistance and
9 Review Program for Teachers pursuant to this article. On or before
10 June 29, 2001, the Superintendent of Public Instruction shall
11 apportion to every school district that provides this notification an
12 amount equal to the number of mentor teachers that the state
13 calculated the school district is entitled to in the 1999–2000 school
14 year pursuant to Article 4 (commencing with Section 44490) times
15 a maximum of one thousand dollars (\$1,000). Any school district
16 that provides this notification shall receive at least the amount that
17 would be received pursuant to this section by a school district with
18 one state funded mentor in the 2000–01 school year pursuant to
19 Article 4 (commencing with Section 44490).

20 (d) A school district that notifies the Superintendent of Public
21 Instruction that it plans to implement a Peer Assistance and
22 Review Program for Teachers by July 1, 2001, pursuant to
23 subdivision (c), shall certify to the Superintendent of Public
24 Instruction that it has implemented a program by July 1, 2001. In
25 addition to the certification, the Superintendent of Public
26 Instruction may request a copy of the signature page of the
27 collective bargaining agreement implementing the program
28 required pursuant to subdivision (a) of Section 44503. A school
29 district that fails to provide the required certification is not eligible
30 for any apportionment for the Peer Assistance and Review
31 Program received pursuant to subdivision (c) of this section, and
32 subdivision (a) of Section 44498 in the 2001–02 school year, or in
33 any year thereafter.

34 (e) The funding provided pursuant to subdivisions (a) and (c)
35 of this section and subdivision (a) of Section 44498 shall be
36 provided to eligible school districts in each year that the school
37 operates a Peer Assistance and Review Program for Teachers.

38 (f) The maximum amount of funds available for apportionment
39 to school districts by the Superintendent of Public Instruction for
40 allocation pursuant to subdivision (c) shall be the amount

1 appropriated pursuant to subdivision (a) of Section 6 of the act
2 adding this section, minus any funds apportioned by the
3 Superintendent of Public Instruction to school districts pursuant to
4 subdivision (a) as of June 30, 2000.

5 (g) A school district may use funds apportioned pursuant to this
6 section for activities necessary to implement the Peer Assistance
7 and Review Program for Teachers.

8 ~~SEC. 43.—~~

9 *SEC. 27.* Section 45037 of the Education Code is amended to
10 read:

11 45037. (a) Except as provided in Section 45036, for the fiscal
12 year 2001–02 and for any fiscal year thereafter in which a person
13 renders service as a teacher in kindergarten or any of grades 1 to
14 12, inclusive, who does not have a valid certification document,
15 the school district or county office of education in which the
16 person is employed shall be assessed a penalty that shall be in lieu
17 of any loss of funding that would otherwise result under Chapter
18 6.10 (commencing with Section 52120) of Part 28. The penalty
19 shall be calculated as provided in subdivision (b) and withheld
20 from state funding otherwise due to the district or county office of
21 education.

22 (1) Notwithstanding Section 46300, the attendance of the
23 noncertificated person's pupils during the period of service shall
24 be included in the computation of average daily attendance.

25 (2) The noncertificated person's period of service shall not be
26 excluded from the determination of eligibility for incentive
27 funding for a longer instructional day or year, or both, pursuant to
28 Article 8 (commencing with Section 46200) of Chapter 2 of Part
29 26.

30 (b) (1) For each person who rendered service in the
31 employment of the district or county office of education as a
32 teacher in kindergarten or any of grades 1 to 12, inclusive, during
33 the fiscal year, add the total number of schooldays on which the
34 person rendered any amount of the service.

35 (2) For each person who rendered service in the employment
36 of the district or county office of education as a teacher in
37 kindergarten or any of grades 1 to 12, inclusive, during the fiscal
38 year, for a period of service during which the person did not have
39 a valid certification document, add the number of schooldays on

1 which the person rendered any amount of the service without a
2 valid certification document.

3 (3) Divide the number determined in paragraph (2) by the
4 number determined in paragraph (1) and carry the result to four
5 decimal places.

6 (4) Multiply a school district's revenue limit entitlement for the
7 fiscal year, calculated pursuant to Section 42238, or its funding
8 amount calculated pursuant to Article 4 (commencing with
9 Section 42280) of Chapter 7 of Part 24, as applicable, or a county
10 office of education's funding for the fiscal year, for the program
11 in which the noncertificated person rendered service by the
12 number determined in paragraph (3).

13 (c) Beginning in 2002–03, if a county office of education
14 releases a warrant in favor of a person for whom a period of school
15 district service is included in the calculation set forth in paragraph
16 (2) of subdivision (b), the county office shall be assessed a penalty.
17 The penalty assessed to a county office for any fiscal year in which
18 one or more district teachers did not have a valid certification
19 document shall be equal to the lesser of three amounts as follows:

20 (1) Fifty percent of all penalties assessed for that fiscal year to
21 all school districts in the county office's jurisdiction pursuant to
22 subdivision (b).

23 (2) One-half percent of the total expenditures for that fiscal
24 year from unrestricted resources, as defined in the California
25 School Accounting Manual, in the county office's county school
26 service fund, when two or fewer districts in the county office's
27 jurisdiction are subject penalties pursuant to subdivision (b).

28 (3) One percent of the total expenditures for that fiscal year
29 from unrestricted resources, as defined in the California School
30 Accounting Manual, in the county office's county school service
31 fund, when three or more districts in the county office's
32 jurisdiction are subject penalties pursuant to subdivision (b).

33 (d) Nothing in this section may be waived in whole or in any
34 part.

35 ~~SEC. 44.—~~

36 ~~SEC. 28.~~ Section 45357 of the Education Code is repealed.

37 ~~SEC. 45.—~~

38 ~~SEC. 29.~~ Section 45358 of the Education Code is repealed.

39 ~~SEC. 46.—~~

SEC. 30. Section 46201 of the Education Code is amended to read:

46201. (a) In each of the 1984–85, 1985–86, and 1986–87 fiscal years, for each school district that certifies to the Superintendent of Public Instruction that it offers at least the amount of instructional time specified in this subdivision at a grade level or levels, the Superintendent of Public Instruction shall determine an amount equal to twenty dollars (\$20) per unit of current year second principal apportionment regular average daily attendance in kindergarten and grades 1 to 8, inclusive, and forty dollars (\$40) per unit of current year second principal apportionment regular average daily attendance in grades 9 to 12, inclusive. This section shall not apply to adult average daily attendance, the average daily attendance for pupils attending summer schools, alternative schools, regional occupational centers and programs, continuation high schools, or opportunity schools, and the attendance of pupils while participating in community college or independent study programs.

(1) In the 1984–85 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

(A) The number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(B) One-third of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(2) In the 1985–86 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

(A) The number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(B) Two-thirds of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(3) In the 1986–87 fiscal year:

(A) Thirty-six thousand minutes in kindergarten.

(B) Fifty thousand four hundred minutes in grades 1 to 3, inclusive.

(C) Fifty-four thousand minutes in grades 4 to 8, inclusive.

1 (D) Sixty-four thousand eight hundred minutes in grades 9 to
2 12, inclusive.

3 (4) In any fiscal year, each school district that receives an
4 apportionment pursuant to subdivision (a) for average daily
5 attendance in grades 9 to 12, inclusive, shall offer a program of
6 instruction that allows each student to receive at least 24 course
7 years of instruction, or the equivalent, during grades 9 to 12,
8 inclusive.

9 (5) For any schoolsite at which programs are operated in more
10 than one of the grade levels enumerated in subparagraph (B) or (C)
11 of paragraph (3), the school district may calculate a weighted
12 average of minutes for those grade levels at that schoolsite for
13 purposes of making the certification authorized by this
14 subdivision.

15 (b) (1) If any of the amounts of instructional time specified in
16 paragraph (3) of subdivision (a) is a lesser number of minutes for
17 that grade level than actually provided by the district in the same
18 grade in the 1982–83 fiscal year, the 1982–83 fiscal year number
19 of minutes for that grade level, adjusted to comply with Section
20 46111, shall instead be the requirement for the purposes of
21 paragraphs (1), (2), and (3) of subdivision (a). Commencing with
22 the 1990–91 fiscal year, and each fiscal year through the 1995–96
23 fiscal year, any school district subject to this subdivision that does
24 not maintain the number of instructional minutes for a particular
25 grade level that the school district maintained for the 1982–83
26 fiscal year, adjusted to comply with Section 46111, shall not be
27 subject to paragraphs (1) to (3), inclusive, of subdivision (c) if that
28 school district maintains at least the minimum number of
29 instructional minutes for each grade level set forth in paragraph (3)
30 of subdivision (a) in the 1990–91 fiscal year and each fiscal year
31 through the 1994–95 fiscal year or the 1995–96 fiscal year for
32 districts whose instructional minutes were adjusted to comply with
33 Section 46111, and thereafter returns to the number of
34 instructional minutes maintained for each grade level in the
35 1982–83 fiscal year.

36 (2) The Legislature finds and declares that the school districts
37 to which paragraph (1) is applicable have not offered any less
38 instructional time than is required of all other school districts and
39 therefore should not be forced to pay any penalty.

(c) (1) For any school district that receives an apportionment pursuant to subdivision (a) in the 1984–85 fiscal year and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (1) of subdivision (a) in the 1985–86 fiscal year or any fiscal year thereafter, up to and including the 2000–01 fiscal year, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1985–86 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1985–86 fiscal year and fiscal years thereafter.

(2) For each school district that receives an apportionment pursuant to subdivision (a) in the 1985–86 fiscal year and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (2) of subdivision (a) in the 1986–87 fiscal year or any fiscal year thereafter, up to and including the 2000–01 fiscal year, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1986–87 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1986–87 fiscal year and fiscal years thereafter.

(3) For each school district that receives an apportionment pursuant to subdivision (a) in the 1986–87 fiscal year and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (3) of subdivision (a) in the 1987–88 fiscal year or any fiscal year thereafter, up to and including the 2000–01 fiscal year, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1987–88 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1987–88 fiscal year and fiscal years thereafter.

(d) For each school district that receives an apportionment pursuant to subdivision (a) in the 1986–87 fiscal year and that reduces the amount of instructional time offered below the minimum amounts specified in either paragraph (3) of subdivision



(a) or paragraph (1) of subdivision (b), whichever is applicable, in the 2001–02 fiscal year, or any fiscal year thereafter, the Superintendent of Public Instruction shall withhold from the district’s revenue limit apportionment for the average daily attendance of each affected grade level, the sum of that apportionment multiplied by the percentage of the minimum offered minutes at that grade level that the district failed to offer.

~~SEC. 47.—~~

SEC. 31. Section 46202 of the Education Code is amended to read:

46202. (a) Except as otherwise provided in this section, in fiscal year 2000–01 and prior, if a school district that does not participate in the program set forth in this article offers less instructional time than the amount of instructional time fixed for the 1982–83 fiscal year, the Superintendent of Public Instruction shall, in that fiscal year, reduce that district’s apportionment by the average percentage increase in the base revenue limit for districts of similar type and size multiplied by the district’s units of average daily attendance.

(b) Except as otherwise provided in this section, in fiscal year 2001–02 and any fiscal year thereafter, if the governing board of a school district offers less instructional time than the amount of instructional time fixed for the 1982–83 fiscal year, the Superintendent of Public Instruction shall withhold for that fiscal year, from the district’s revenue limit apportionment for the average daily attendance of each affected grade level, the sum of that apportionment multiplied by the percentage of instructional minutes fixed in the 1982–83 school year, at that grade level, that the district failed to offer.

(c) The Glendora Unified School District shall reinstate the sixth period, which shall be equivalent to at least 50 minutes of instruction, effective the start of the second semester of the 1983–84 fiscal year.

~~SEC. 48.—~~

SEC. 32. Section 48209.16 of the Education Code is amended to read:

48209.16. This article shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009,

1 deletes or extends the dates on which it becomes inoperative and
2 is repealed.

3 ~~SEC. 49.—~~

4 *SEC. 33.* Section 48209.17 of the Education Code is repealed.

5 ~~SEC. 50.—~~

6 *SEC. 34.* Section 48916 of the Education Code is amended to
7 read:

8 48916. (a) An expulsion order shall remain in effect until the
9 governing board, in the manner prescribed in this article, orders
10 the readmission of a pupil. At the time an expulsion of a pupil is
11 ordered for an act other than those described in subdivision (c) of
12 Section 48915, the governing board shall set a date, not later than
13 the last day of the semester following the semester in which the
14 expulsion occurred, when the pupil shall be reviewed for
15 readmission to a school maintained by the district or to the school
16 the pupil last attended. For a pupil who has been expelled pursuant
17 to subdivision (c) of Section 48915, the governing board shall set
18 a date of one year from the date the expulsion occurred, when the
19 pupil shall be reviewed for readmission to a school maintained by
20 the district, except that the governing board may set an earlier date
21 for readmission on a case-by-case basis. If an expulsion is ordered
22 during summer session or the intercession period of a year-round
23 program, the governing board shall set a date, not later than the last
24 day of the semester following the summer session or intersession
25 period during which the expulsion was ordered, when the pupil
26 shall be reviewed for readmission to a school maintained by the
27 district or to the school the pupil last attended.

28 (b) The governing board shall recommend a plan of
29 rehabilitation for the pupil at the time of the expulsion order, which
30 may include, but not be limited to, periodic review as well as
31 assessment at the time of review for readmission. The plan may
32 also include recommendations for improved academic
33 performance, tutoring, special education assessments, job
34 training, counseling, employment, community service, or other
35 rehabilitative programs.

36 (c) The governing board of each school district shall adopt
37 rules and regulations establishing a procedure for the filing and
38 processing of requests for readmission and the process for the
39 required review of all expelled pupils for readmission. Upon
40 completion of the readmission process, the governing board shall

1 readmit the pupil, unless the governing board makes a finding that
2 the pupil has not met the conditions of the rehabilitation plan or
3 continues to pose a danger to campus safety or to other pupils or
4 employees of the school district. A description of the procedure
5 shall be made available to the pupil and the pupil's parent or
6 guardian at the time the expulsion order is entered.

7 (d) If the governing board denies the readmission of an
8 expelled pupil pursuant to subdivision (c), the governing board
9 shall make a determination either to continue the placement of the
10 pupil in the alternative educational program initially selected for
11 the pupil during the period of the expulsion order or to place the
12 pupil in another program that may include, but need not be limited
13 to, serving expelled pupils, including placement in a county
14 community school.

15 (e) The governing board shall provide written notice to the
16 expelled pupil and the pupil's parent or guardian describing the
17 reasons for denying the pupil readmittance into the regular school
18 district program. The written notice shall also include the
19 determination of the educational program for the expelled pupil
20 pursuant to subdivision (d). The expelled pupil shall enroll in that
21 educational program unless the parent or guardian of the pupil
22 elects to enroll the pupil in another school district.

23 ~~SEC. 51.—~~

24 *SEC. 35.* Section 48918 of the Education Code is amended to
25 read:

26 48918. The governing board of each school district shall
27 establish rules and regulations governing procedures for the
28 expulsion of pupils. These procedures shall include, but are not
29 necessarily limited to, all of the following:

30 (a) The pupil shall be entitled to a hearing to determine whether
31 the pupil should be expelled. An expulsion hearing shall be held
32 within 30 schooldays after the date the principal or the
33 superintendent of schools determines that the pupil has committed
34 any of the acts enumerated in Section 48900, unless the pupil
35 requests, in writing, that the hearing be postponed. The adopted
36 rules and regulations shall specify that the pupil is entitled to at
37 least one postponement of an expulsion hearing, for a period of not
38 more than 30 calendar days. Any additional postponement may be
39 granted at the discretion of the governing board.

1 Within 10 schooldays after the conclusion of the hearing, the
2 governing board shall decide whether to expel the pupil, unless the
3 pupil requests in writing that the decision be postponed. If the
4 hearing is held by a hearing officer or an administrative panel, or
5 if the district governing board does not meet on a weekly basis, the
6 governing board shall decide whether to expel the pupil within 40
7 schooldays after the date of the pupil's removal from his or her
8 school of attendance for the incident for which the
9 recommendation for expulsion is made by the principal or the
10 superintendent, unless the pupil requests in writing that the
11 decision be postponed.

12 If compliance by the governing board with the time
13 requirements for the conducting of an expulsion hearing under this
14 subdivision is impracticable during the regular school year, the
15 superintendent of schools or the superintendent's designee may,
16 for good cause, extend the time period for the holding of the
17 expulsion hearing for an additional five schooldays. If compliance
18 by the governing board with the time requirements for the
19 conducting of an expulsion hearing under this subdivision is
20 impractical due to a summer recess of governing board meetings
21 of more than two weeks, the days during the recess period shall not
22 be counted as schooldays in meeting the time requirements. The
23 days not counted as schooldays in meeting the time requirements
24 for an expulsion hearing because of a summer recess of governing
25 board meetings shall not exceed 20 schooldays, as defined in
26 subdivision (c) of Section 48925, and unless the pupil requests in
27 writing that the expulsion hearing be postponed, the hearing shall
28 be held not later than 20 calendar days prior to the first day of
29 school for the school year. Reasons for the extension of the time
30 for the hearing shall be included as a part of the record at the time
31 the expulsion hearing is conducted. Upon the commencement of
32 the hearing, all matters shall be pursued and conducted with
33 reasonable diligence and shall be concluded without any
34 unnecessary delay.

35 (b) Written notice of the hearing shall be forwarded to the pupil
36 at least 10 calendar days prior to the date of the hearing. The notice
37 shall include all of the following:

38 (1) The date and place of the hearing.

39 (2) A statement of the specific facts and charges upon which the
40 proposed expulsion is based.



1 (3) A copy of the disciplinary rules of the district that relate to
2 the alleged violation.

3 (4) A notice of the parent, guardian, or pupil's obligation
4 pursuant to subdivision (b) of Section 48915.1.

5 (5) Notice of the opportunity for the pupil or the pupil's parent
6 or guardian to appear in person or to be represented by legal
7 counsel or by a nonattorney adviser, to inspect and obtain copies
8 of all documents to be used at the hearing, to confront and question
9 all witnesses who testify at the hearing, to question all other
10 evidence presented, and to present oral and documentary evidence
11 on the pupil's behalf, including witnesses. In a hearing in which a
12 pupil is alleged to have committed or attempted to commit a sexual
13 assault as specified in subdivision (n) of Section 48900 or
14 committing a sexual battery as defined in subdivision (n) of
15 Section 48900, a complaining witness shall be given five days'
16 notice before being called to testify, and shall be entitled to have
17 up to two adult support persons, including, but not limited to, a
18 parent, guardian, or legal counsel, present during their testimony.
19 Before a complaining witness testifies, support persons shall be
20 admonished that the hearing is confidential. Nothing in this
21 subdivision shall preclude the person presiding over an expulsion
22 hearing from removing a support person whom the presiding
23 person finds is disrupting the hearing. If one or both of the support
24 persons is also a witness, the provisions of Section 868.5 of the
25 Penal Code shall be followed for the hearing. This section does not
26 require a pupil or the pupil's parent or guardian to be represented
27 by legal counsel or by a nonattorney adviser at the hearing.

28 (A) For purposes of this section, "legal counsel" means an
29 attorney or lawyer who is admitted to the practice of law in
30 California and is an active member of the State Bar of California.

31 (B) For purposes of this section, "nonattorney advisor" means
32 an individual who is not an attorney or lawyer, but who is familiar
33 with the facts of the case, and has been selected by the pupil or
34 pupil's parent or guardian to provide assistance at the hearing.

35 (c) Notwithstanding Section 54593 of the Government Code
36 and Section 35145, the governing board shall conduct a hearing to
37 consider the expulsion of a pupil in a session closed to the public,
38 unless the pupil requests, in writing, at least five days before the
39 date of the hearing, that the hearing be conducted at a public
40 meeting. Regardless of whether the expulsion hearing is

1 conducted in a closed or public session, the governing board may
2 meet in closed session for the purpose of deliberating and
3 determining whether the pupil should be expelled.

4 If the governing board or the hearing officer or administrative
5 panel appointed under subdivision (d) to conduct the hearing
6 admits any other person to a closed deliberation session, the parent
7 or guardian of the pupil, the pupil, and the counsel of the pupil also
8 shall be allowed to attend the closed deliberations.

9 If the hearing is to be conducted at a public meeting, and there
10 is a charge of committing or attempting to commit a sexual assault
11 as defined in subdivision (n) of Section 48900 or committing a
12 sexual battery as defined in subdivision (n) of Section 48900, a
13 complaining witness shall have the right to have his or her
14 testimony heard in a session closed to the public when testifying
15 at a public meeting would threaten serious psychological harm to
16 the complaining witness and there are no alternative procedures to
17 avoid the threatened harm, including, but not limited to,
18 videotaped deposition or contemporaneous examination in
19 another place communicated to the hearing room by means of
20 closed-circuit television.

21 (d) Instead of conducting an expulsion hearing itself, the
22 governing board may contract with the county hearing officer, or
23 with the Office of Administrative Hearings of the State of
24 California pursuant to Chapter 14 (commencing with Section
25 27720) of Part 3 of Division 2 of Title 3 of the Government Code
26 and Section 35207, for a hearing officer to conduct the hearing.
27 The governing board may also appoint an impartial administrative
28 panel of three or more certificated persons, none of whom is a
29 member of the board or employed on the staff of the school in
30 which the pupil is enrolled. The hearing shall be conducted in
31 accordance with all of the procedures established under this
32 section.

33 (e) Within three schooldays after the hearing, the hearing
34 officer or administrative panel shall determine whether to
35 recommend the expulsion of the pupil to the governing board. If
36 the hearing officer or administrative panel decides not to
37 recommend expulsion, the expulsion proceedings shall be
38 terminated and the pupil immediately shall be reinstated and
39 permitted to return to a classroom instructional program, any other
40 instructional program, a rehabilitation program, or any

1 combination of these programs. Placement in one or more of these
2 programs shall be made by the superintendent of schools or the
3 superintendent's designee after consultation with school district
4 personnel, including the pupil's teachers, and the pupil's parent or
5 guardian. The decision not to recommend expulsion shall be final.

6 (f) If the hearing officer or administrative panel recommends
7 expulsion, findings of fact in support of the recommendation shall
8 be prepared and submitted to the governing board. All findings of
9 fact and recommendations shall be based solely on the evidence
10 adduced at the hearing. If the governing board accepts the
11 recommendation calling for expulsion, acceptance shall be based
12 either upon a review of the findings of fact and recommendations
13 submitted by the hearing officer or panel or upon the results of any
14 supplementary hearing conducted pursuant to this section that the
15 governing board may order.

16 The decision of the governing board to expel a pupil shall be
17 based upon substantial evidence relevant to the charges adduced
18 at the expulsion hearing or hearings. Except as provided in this
19 section, no evidence to expel shall be based solely upon hearsay
20 evidence. The governing board or the hearing officer or
21 administrative panel may, upon a finding that good cause exists,
22 determine that the disclosure of either the identity of a witness or
23 the testimony of that witness at the hearing, or both, would subject
24 the witness to an unreasonable risk of psychological or physical
25 harm. Upon this determination, the testimony of the witness may
26 be presented at the hearing in the form of sworn declarations which
27 shall be examined only by the governing board or the hearing
28 officer or administrative panel. Copies of these sworn
29 declarations, edited to delete the name and identity of the witness,
30 shall be made available to the pupil.

31 (g) A record of the hearing shall be made. The record may be
32 maintained by any means, including electronic recording, so long
33 as a reasonably accurate and complete written transcription of the
34 proceedings can be made.

35 (h) Technical rules of evidence shall not apply to the hearing,
36 but relevant evidence may be admitted and given probative effect
37 only if it is the kind of evidence upon which reasonable persons are
38 accustomed to rely in the conduct of serious affairs. A decision of
39 the governing board to expel shall be supported by substantial

1 evidence showing that the pupil committed any of the acts
2 enumerated in Section 48900.

3 In hearings which include an allegation of committing or
4 attempting to commit a sexual assault as defined in subdivision (n)
5 of Section 48900 or committing a sexual battery as defined in
6 subdivision (n) of Section 48900, evidence of specific instances,
7 of a complaining witness' prior sexual conduct is to be presumed
8 inadmissible and shall not be heard absent a determination by the
9 person conducting the hearing that extraordinary circumstances
10 exist requiring the evidence be heard. Before the person
11 conducting the hearing makes the determination on whether
12 extraordinary circumstances exist requiring that specific instances
13 of a complaining witness' prior sexual conduct be heard, the
14 complaining witness shall be provided notice and an opportunity
15 to present opposition to the introduction of the evidence. In the
16 hearing on the admissibility of the evidence, the complaining
17 witness shall be entitled to be represented by a parent, guardian,
18 legal counsel, or other support person. Reputation or opinion
19 evidence regarding the sexual behavior of the complaining witness
20 is not admissible for any purpose.

21 (i) (1) Before the hearing has commenced, the governing
22 board may issue subpoenas at the request of either the
23 superintendent of schools or the superintendent's designee or the
24 pupil, for the personal appearance of percipient witnesses at the
25 hearing. After the hearing has commenced, the governing board or
26 the hearing officer or administrative panel may, upon request of
27 either the county superintendent of schools or the superintendent's
28 designee or the pupil, issue subpoenas. All subpoenas shall be
29 issued in accordance with Sections 1985, 1985.1, and 1985.2 of the
30 Code of Civil Procedure. Enforcement of subpoenas shall be done
31 in accordance with Section 11455.20 of the Government Code.

32 (2) Any objection raised by the superintendent of schools or the
33 superintendent's designee or the pupil to the issuance of subpoenas
34 may be considered by the governing board in closed session, or in
35 open session, if so requested by the pupil before the meeting. Any
36 decision by the governing board in response to an objection to the
37 issuance of subpoenas shall be final and binding.

38 (3) If the governing board, hearing officer, or administrative
39 panel determines, in accordance with subdivision (f), that a
40 percipient witness would be subject to an unreasonable risk of

1 harm by testifying at the hearing, a subpoena shall not be issued
2 to compel the personal attendance of that witness at the hearing.
3 However, that witness may be compelled to testify by means of a
4 sworn declaration as provided for in subdivision (f).

5 (4) Service of process shall be extended to all parts of the state
6 and shall be served in accordance with Section 1987 of the Code
7 of Civil Procedure. All witnesses appearing pursuant to subpoena,
8 other than the parties or officers or employees of the state or any
9 political subdivision thereof, shall receive fees, and all witnesses
10 appearing pursuant to subpoena, except the parties, shall receive
11 mileage in the same amount and under the same circumstances as
12 prescribed for witnesses in civil actions in a superior court. Fees
13 and mileage shall be paid by the party at whose request the witness
14 is subpoenaed.

15 (j) Whether an expulsion hearing is conducted by the
16 governing board or before a hearing officer or administrative
17 panel, final action to expel a pupil shall be taken only by the
18 governing board in a public session. Written notice of any decision
19 to expel or to suspend the enforcement of an expulsion order
20 during a period of probation shall be sent by the superintendent of
21 schools or his or her designee to the pupil or the pupil's parent or
22 guardian and shall be accompanied by all of the following:

23 (1) Notice of the right to appeal the expulsion to the county
24 board of education.

25 (2) Notice of the education alternative placement to be
26 provided to the pupil during the time of expulsion.

27 (3) Notice of the obligation of the parent, guardian, or pupil
28 under subdivision (b) of Section 48915.1, upon the pupil's
29 enrollment in a new school district, to inform that district of the
30 pupil's expulsion.

31 (k) The governing board shall maintain a record of each
32 expulsion, including the cause therefor. Records of expulsions
33 shall be a nonprivileged, disclosable public record.

34 The expulsion order and the causes therefor shall be recorded in
35 the pupil's mandatory interim record and shall be forwarded to any
36 school in which the pupil subsequently enrolls upon receipt of a
37 request from the admitting school for the pupil's school records.

38 ~~SEC. 52.—~~

39 *SEC. 36.* Section 48980 of the Education Code is amended to
40 read:

48980. (a) At the beginning of the first semester or quarter of the regular school term, the governing board of each school district shall notify the parent or guardian of its minor pupils regarding the right or responsibility of the parent or guardian under Sections 35291, 46014, 48205, 48207, 48208, 49403, 49423, 49451, 49472, 51240, and 51550 and Chapter 2.3 (commencing with Section 32255) of Part 19.

(b) The notification also shall advise the parent or guardian of the availability of individualized instruction as prescribed by Section 48206.3, and of the program prescribed by Article 9 (commencing with Section 49510) of Chapter 9.

(c) The notification shall also advise the parents and guardians of all pupils attending a school within the district of the schedule of minimum days and pupil-free staff development days, and if any minimum or pupil-free staff development days are scheduled thereafter, the governing board shall notify parents and guardians of the affected pupils as early as possible, but not later than one month before the scheduled minimum or pupil-free day.

(d) The notification also may advise the parent or guardian of the importance of investing for future college or university education for their children and of considering appropriate investment options including, but not limited to, United States Savings Bonds.

(e) Commencing with the 2000–01 school year, and each school year thereafter, the notification shall advise the parent or guardian of the pupil that, commencing with the 2003–04 school year, and each school year thereafter, each pupil completing 12th grade will be required to successfully pass the high school exit examination administered pursuant to Chapter 8 (commencing with Section 60850) of Part 33. The notification shall include, at a minimum, the date of the examination, the requirements for passing the examination, and shall inform the parents and guardians regarding the consequences of not passing the examination and shall inform parents and guardians that passing the examination is a condition of graduation.

(f) Each school district that elects to provide a fingerprinting program pursuant to Article 10 (commencing with Section 32390) shall inform parents or guardians of the program as specified in Section 32390.

1 (g) The notification shall also include a copy of the district's
2 written policy on sexual harassment established pursuant to
3 Section 212.6, as it relates to pupils.

4 (h) Commencing July 1, 1998, the notification shall include a
5 copy of the written policy of the school district adopted pursuant
6 to Section 51870.5 regarding access by pupils to Internet and
7 online sites.

8 (i) The notification shall advise the parent or guardian of all
9 current statutory attendance options and local attendance options
10 available in the school district. That notification shall include all
11 options for meeting residency requirements for school attendance,
12 programmatic options offered within the local attendance areas,
13 and any special programmatic options available on both an
14 interdistrict and intradistrict basis. That notification shall also
15 include a description of all options, a description of the procedure
16 for application for alternative attendance areas or programs, an
17 application form from the district for requesting a change of
18 attendance, and a description of the appeals process available, if
19 any, for a parent or guardian denied a change of attendance. The
20 notification shall also include an explanation of the current
21 statutory attendance options including, but not limited to, those
22 available under Section 35160.5, Chapter 5 (commencing with
23 Section 46600) of Part 26, subdivision (f) of Section 48204, and
24 Article 1.5 (commencing with Section 48209) of Chapter 2 of Part
25 27. The State Department of Education shall produce this portion
26 of the notification and shall distribute it to all school districts.

27 (j) It is the intent of the Legislature that the governing board of
28 each school district annually review the enrollment options
29 available to the pupils within their districts and that the school
30 districts strive to make available enrollment options that meet the
31 diverse needs, potential, and interests of California's pupils.

32 (k) The notification shall advise the parent or guardian that no
33 pupil may have his or her grade reduced or lose academic credit
34 for any absence or absences excused pursuant to Section 48205
35 when missed assignments and tests that can reasonably be
36 provided are satisfactorily completed within a reasonable period
37 of time, and shall include the full text of Section 48205.

38 (l) The notification shall advise the parent or guardian of the
39 availability of state funds to cover the costs of advanced placement
40 examination fees pursuant to Section 52244.

1 ~~SEC. 53.—~~

2 *SEC. 37.* Section 51132 of the Education Code is repealed.

3 ~~SEC. 54.—~~

4 *SEC. 38.* Section 51882 of the Education Code is repealed.

5 ~~SEC. 55.—~~

6 *SEC. 39.* Section 52055.600 of the Education Code is amended
7 to read:

8 52055.600. (a) The High Priority Schools Grant Program for
9 Low Performing Schools is hereby established. Participation in
10 this program is voluntary.

11 (b) From funds made available for purposes of this article, the
12 Superintendent of Public Instruction shall allocate a total of four
13 hundred dollars (\$400) per pupil, but not less than fifty thousand
14 dollars (\$50,000), including funds received pursuant to Section
15 52054.5 or for the Comprehensive School Reform Demonstration
16 Program (Public Law 105-78), to eligible schools for
17 implementation of a school action plan approved pursuant to this
18 article. In the first year of participation, instead of four hundred
19 dollars (\$400) per pupil, a schoolsite may receive a total of
20 thirty-three dollars and thirty-three cents (\$33.33) per pupil for
21 each month remaining in the fiscal year ending June 30, 2003,
22 beginning in the month immediately following the date of
23 approval by the State Board of Education of the action plan
24 required pursuant to this article. If the plan is not approved prior
25 to the end of the fiscal year, the funding shall be similarly prorated
26 in the subsequent year.

27 (c) It is the intent of the Legislature that federal funding
28 provided pursuant to the Comprehensive School Reform
29 Demonstration Program (P.L. 105-78) supplement, not supplant,
30 funding received pursuant to this article.

31 (d) Funds received pursuant to this article may not be used to
32 match funds received pursuant to Article 3 (commencing with
33 Section 52053).

34 (e) The school district shall keep fiscal records available for
35 inspection that affirm allocation to schoolsites in accordance with
36 this section and shall allocate resources in a manner that does not
37 delay their use.

38 (f) Notwithstanding any other provision of law, a school
39 district receiving funding pursuant to this section in the 2002–03

1 fiscal year may carry over funds until the end of the 2003-04 fiscal
2 year.

3 ~~SEC. 56.—~~

4 *SEC. 40.* Section 52055.640 of the Education Code is amended
5 to read:

6 52055.640. (a) As a condition of the receipt of funds for the
7 initial and each subsequent year of funding pursuant to this article
8 and to ensure that the school is progressing towards meeting the
9 goals of each of the essential components of its school action plan,
10 each year the school district shall submit a report to the
11 Superintendent of Public Instruction that includes the following:

12 (1) The academic improvement of pupils within the
13 participating school as measured by the tests under Section 60640
14 and the progress made towards achieving English language
15 proficiency as measured by the English language development test
16 administered pursuant to Section 60810.

17 (2) The improvement of distribution of experienced teachers
18 holding a valid California teaching credential across the district.

19 (3) The availability of instructional materials in core content
20 areas that are aligned with the academic content and performance
21 standards, including textbooks, for each pupil, including English
22 language learners.

23 (4) The number of parents and guardians presently involved at
24 each participating schoolsite as compared to the number
25 participating at the beginning of the program.

26 (5) The number of pupils attending afterschool, tutoring, or
27 homework assistance programs.

28 (6) For participating secondary schools, the number of pupils
29 who are enrolled in and successfully completing advanced
30 placement courses, by type, and requirements for admission to the
31 University of California or the California State University,
32 including courses in algebra, biology, and United States or world
33 history.

34 (b) The report on the pupil literacy and achievement
35 component shall be disaggregated by numerically significant
36 subgroups, as defined in Section 52052, and English language
37 learners and have a focus on improved scores in reading and
38 mathematics as measured by the following:

39 (1) The Academic Performance Index, including the data
40 collected pursuant to tests that are part of the Standardized Testing

1 and Reporting Program and the writing sample that is part of that
2 program.

3 (2) The results of the primary language test pursuant to Section
4 60640.

5 (3) Graduation rates, when the methodology for collecting this
6 data has been confirmed to be valid and reliable.

7 (4) In addition, a school may use locally developed
8 assessments to assist it in determining the pupil progress in
9 academic literacy and achievement.

10 (c) The report on the quality of staff component shall include,
11 but not be limited to, the following information:

12 (1) The number of teachers at the schoolsite holding a valid
13 California teaching credential or district or university intern
14 certificate or credential compared to those teachers at the same
15 schoolsite holding a preintern certificate, emergency permit, or
16 waiver.

17 (2) The number and ratio of teachers across the district holding
18 a valid California teaching credential or district or university
19 intern certificate or credential compared to those holding a
20 preintern certificate, emergency permit, or waiver.

21 (3) The number of principals having completed training
22 pursuant to Article 4.6 (commencing with Section 44510) of
23 Chapter 3 of Part 25.

24 (4) The number of principals by credential type or years of
25 experience and length of time at the schoolsite by years.

26 (d) The report on the parental involvement component shall
27 include explicit involvement strategies being implemented at the
28 schoolsite that are directly linked to activities supporting pupil
29 academic achievement and verification that the schoolsite has
30 developed a school-parent compact as required by Section 51101.

31 (e) All comparisons made in the reports required pursuant to
32 this section shall be based on baseline data provided by the district
33 and schoolsite in the action plan that is certified and submitted with
34 the initial application.

35 (f) To the extent that data is already reported to the
36 Superintendent of Public Instruction, a school district need not
37 include the data in the reports submitted pursuant to this section.

38 (g) Before submitting the reports required pursuant to this
39 section, the school district shall, at a regularly scheduled public

1 meeting of the governing board, review a participating school's
2 progress towards achieving those goals.

3 ~~SEC. 57.~~

4 *SEC. 41.* Section 56001 of the Education Code is amended to
5 read:

6 56001. It is the intent of the Legislature that special education
7 programs provide all of the following:

8 (a) Each individual with exceptional needs is assured an
9 education appropriate to his or her needs in publicly supported
10 programs through completion of his or her prescribed course of
11 study and until he or she meets graduation requirements or until he
12 or she becomes 22 years of age, as specified in Section 56026 and
13 56026.1.

14 (b) By June 30, 1991, early educational opportunities shall be
15 available to all children between the ages of three and five years
16 who require special education and services.

17 (c) Early educational opportunities shall be made available to
18 children younger than three years of age pursuant to Chapter 4.4
19 (commencing with Section 56425), appropriate sections of this
20 part, and the California Early Intervention Service Act, Title 14
21 (commencing with Section 95000) of the Government Code.

22 (d) Any child younger than three years, potentially eligible for
23 special education, shall be afforded the protections provided
24 pursuant to the California Early Intervention Services Act, Title 14
25 (commencing with Section 95000) of the Government Code and
26 Section 1439 of Title 20 of the United States Code and
27 implementing regulations.

28 (e) Each individual with exceptional needs shall have his or her
29 educational goals, objectives, and special education and related
30 services specified in a written individualized education program.

31 (f) Education programs are provided under an approved local
32 plan for special education that sets forth the elements of the
33 programs in accordance with this part. This plan for special
34 education shall be developed cooperatively with input from the
35 community advisory committee and appropriate representation
36 from special and regular teachers and administrators selected by
37 the groups they represent to ensure effective participation and
38 communication.

39 (g) Individuals with exceptional needs are offered special
40 assistance programs that promote maximum interaction with the



1 general school population in a manner that is appropriate to the
2 needs of both, taking into consideration, for hard-of-hearing or
3 deaf children, the individual's needs for a sufficient number of age
4 and language mode peers and for special education teachers who
5 are proficient in the individual's primary language mode.

6 (h) Pupils are transferred out of special education programs
7 when special education services are no longer needed.

8 (i) The unnecessary use of labels is avoided in providing
9 special education and related services for individuals with
10 exceptional needs.

11 (j) Procedures and materials for assessment and placement of
12 individuals with exceptional needs shall be selected and
13 administered so as not to be racially, culturally, or sexually
14 discriminatory. No single assessment instrument shall be the sole
15 criterion for determining placement of a pupil. The procedures and
16 materials for assessment and placement shall be in the individual's
17 mode of communication. Procedures and materials for use with
18 pupils of limited English proficiency, as defined in subdivision
19 (m) of Section 52163, shall be in the individual's primary
20 language. All assessment materials and procedures shall be
21 selected and administered pursuant to Section 56320.

22 (k) Educational programs are coordinated with other public
23 and private agencies, including preschools, child development
24 programs, nonpublic nonsectarian schools, regional occupational
25 centers and programs, and postsecondary and adult programs for
26 individuals with exceptional needs.

27 (l) Psychological and health services for individuals with
28 exceptional needs shall be available to each schoolsite.

29 (m) Continuous evaluation of the effectiveness of these special
30 education programs by the school district, special education local
31 plan area, or county office shall be made to ensure the highest
32 quality educational offerings.

33 (n) Appropriate qualified staff are employed, consistent with
34 credentialing requirements, to fulfill the responsibilities of the
35 local plan and positive efforts are made to employ qualified
36 disabled individuals.

37 (o) Regular and special education personnel are adequately
38 prepared to provide educational instruction and services to
39 individuals with exceptional needs.

40 ~~SEC. 58.—~~

1 *SEC. 42.* Section 56028 of the Education Code is amended to
2 read:

3 56028. (a) “Parent,” includes any of the following:

4 (1) A person having legal custody of a child.

5 (2) Any adult pupil for whom no guardian or conservator has
6 been appointed.

7 (3) A person acting in the place of a parent (such as a
8 grandparent or stepparent with whom the child lives). “Parent”
9 also includes a parent surrogate.

10 (4) A foster parent if the natural parents’ authority to make
11 educational decisions on the child’s behalf has been specifically
12 limited by court order in accordance with subsection (b) of Section
13 300.20 of Title 34 of the Code of Federal Regulations.

14 (b) “Parent” does not include the state or any political
15 subdivision of government.

16 ~~SEC. 59.—~~

17 *SEC. 43.* Section 56032 of the Education Code is amended to
18 read:

19 56032. “Individualized education program” means a written
20 document described in Sections 56345 and 56345.1 for an
21 individual with exceptional needs that is developed, reviewed, and
22 revised in a meeting in accordance with Sections 300.340 to
23 300.350, inclusive, of Title 34 of the Code of Federal Regulations
24 and this part. It also means “individualized family service plan”
25 as described in Section 1436 of Title 20 of the United States Code
26 when individualized education program pertains to individuals
27 with exceptional needs younger than three years of age.

28 ~~SEC. 60.—~~

29 *SEC. 44.* Section 56043 of the Education Code is amended to
30 read:

31 56043. The primary timelines affecting special education
32 programs are as follows:

33 (a) A proposed assessment plan shall be developed within 15
34 calendar days of referral for assessment, not counting calendar
35 days between the pupil’s regular school sessions or terms or
36 calendar days of school vacation in excess of five schooldays from
37 the date of receipt of the referral, unless the parent or guardian
38 agrees, in writing, to an extension, pursuant to subdivision (a) of
39 Section 56321.

(b) A parent or guardian shall have at least 15 calendar days from the receipt of the proposed assessment plan to arrive at a decision, pursuant to subdivision (c) of Section 56321.

(c) A parent or guardian shall be notified of the individualized education program meeting early enough to ensure an opportunity to attend, pursuant to subdivision (b) of Section 56341.5.

(d) An individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 50 calendar days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's or guardian's written consent for assessment, unless the parent or guardian agrees, in writing, to an extension, pursuant to Section 56344.

(e) Beginning at age 14 or younger, if determined by the individualized education program team pursuant to paragraph (1) of subsection (b) of Section 300.347 of Title 34 of the Code of Federal Regulations, and updated annually, a statement of the transition service needs of the pupil shall be included in the pupil's individualized education program, pursuant to subdivision (a) of Section 56345.1.

(f) Beginning at age 16, or younger, and annually thereafter, a statement of needed transition services shall be included in the pupil's individualized education program, pursuant to subdivision (b) of Section 56345.1.

(g) A pupil's individualized education program shall be implemented as soon as possible following the individualized education program meeting, pursuant to Section 3040 of Title 5 of the California Code of Regulations.

(h) An individualized education program team shall meet at least annually to review a pupil's progress, the individualized education program, including whether the annual goals for the pupil are being achieved, the appropriateness of the placement, and to make any necessary revisions, pursuant to subdivision (d) of Section 56343, subdivision (a) of Section 56380, and Section 3068 of Title 5 of the California Code of Regulations.

(i) A reassessment of a pupil shall be conducted at least once every three years or more frequently, if conditions warrant a reassessment and a new individualized education program to be developed, pursuant to Section 56381.

1 (j) A meeting of an individualized education program team
2 requested by a parent or guardian to review an individualized
3 education program pursuant to subdivision (c) of Section 56343
4 shall be held within 30 calendar days, not counting days in July and
5 August, from the date of receipt of the parent's or guardian's
6 written request, pursuant to Section 56343.5.

7 (k) The administrator of a local program under this part shall
8 ensure that the pupil is immediately provided an interim placement
9 for a period not to exceed 30 calendar days whenever a pupil
10 transfers into a school district from a school district not operating
11 programs under the same local plan in which he or she was last
12 enrolled in a special education program pursuant to Section 56325.

13 (l) The parent or guardian shall have the right and opportunity
14 to examine all school records of the child and to receive copies
15 within five calendar days after a request is made by the parent or
16 guardian, either orally or in writing, pursuant to Section 56504 and
17 Chapter 6.5 (commencing with Section 49060) of Part 27.

18 (m) Upon receipt of a request from an educational agency
19 where an individual with exceptional needs has enrolled, a former
20 educational agency shall send the pupil's special education
21 records, or a copy thereof, within five working days, pursuant to
22 subdivision (a) of Section 3024 of Title 5 of the California Code
23 of Regulations.

24 (n) The department shall do all of the following:

25 (1) Have a time limit of 60 calendar days after a complaint is
26 filed with the state education agency to investigate the complaint.

27 (2) Give the complainant the opportunity to submit additional
28 information about the allegations in the complaint.

29 (3) Review all relevant information and make an independent
30 determination as to whether there is a violation of a requirement
31 of this part or Part B of the Individuals with Disabilities Education
32 Act (20 U.S.C. Sec. 1400 et seq.).

33 (4) Issue a written decision, pursuant to Section 300.661 of
34 Title 34 of the Code of Federal Regulations.

35 (o) A prehearing mediation conference shall be scheduled
36 within 15 calendar days of receipt by the superintendent of the
37 request for mediation, and shall be completed within 30 calendar
38 days after the request for mediation, unless both parties to the
39 prehearing mediation conference agree to extend the time for
40 completing the mediation, pursuant to Section 56500.3.

1 (p) Any request for a due process hearing arising from
2 subdivision (a) of Section 56501 shall be filed within three years
3 from the date the party initiating the request knew or had reason
4 to know of facts underlying the basis for the request, pursuant to
5 subdivision (j) of Section 56505.

6 (q) The superintendent shall ensure that, within 45 calendar
7 days after receipt of a written due process hearing request, the
8 hearing is immediately commenced and completed, including any
9 mediation requested at any point during the hearing process, and
10 a final administrative decision is rendered, pursuant to subdivision
11 (a) of Section 56502.

12 (r) If either party to a due process hearing intends to be
13 represented by an attorney in the due process hearing, notice of that
14 intent shall be given to the other party at least 10 calendar days
15 prior to the hearing, pursuant to subdivision (a) of Section 56507.

16 (s) Any party to a due process hearing shall have the right to be
17 informed by the other parties to the hearing, at least 10 calendar
18 days prior to the hearing, as to what those parties believe are the
19 issues to be decided at the hearing and their proposed resolution
20 of those issues, pursuant to paragraph (6) of subdivision (e) of
21 Section 56505.

22 (t) Any party to a due process hearing shall have the right to
23 receive from other parties to the hearing, at least five business days
24 prior to the hearing, a copy of all documents, including all
25 assessments completed and not completed by that date, and a list
26 of all witnesses and their general area of testimony that the parties
27 intend to present at the hearing, pursuant to paragraph (7) of
28 subdivision (e) of Section 56505.

29 (u) An appeal of a due process hearing decision shall be made
30 within 90 calendar days of receipt of the hearing decision, pursuant
31 to subdivision (i) of Section 56505.

32 (v) When an individualized education program calls for a
33 residential placement as a result of a review by an expanded
34 individualized education program team, the individualized
35 education program shall include a provision for a review, at least
36 every six months, by the full individualized education program
37 team of all of the following pursuant to paragraph (2) of
38 subdivision (c) of Section 7572.5 of the Government Code:

39 (1) The case progress.

40 (2) The continuing need for out-of-home placement.

(3) The extent of compliance with the individualized education program.

(4) Progress toward alleviating the need for out-of-home care.

(w) No later than the pupil's 17th birthday, a statement shall be included in the pupil's individualized education program that the pupil has been informed of his or her rights that will transfer to the pupil upon reaching 18 years of age pursuant to Section 300.517 of Title 34 of the Code of Federal Regulations, Section 56041.5, and paragraph (8) of subdivision (a) of Section 56345.

~~SEC. 61.—~~

SEC. 45. Section 56170 of the Education Code is amended to read:

56170. As used in this part, "private school children with disabilities" means children with disabilities enrolled by a parent in private preschools or private elementary and secondary schools or facilities, in accordance with Section 300.450 of Title 34 of the Code of Federal Regulations other than individuals with exceptional needs placed by a district, special education local plan area, or county office in a nonpublic, nonsectarian school pursuant to Section 56365.

~~SEC. 62.—~~

SEC. 46. Section 56320 of the Education Code is amended to read:

56320. Before any action is taken with respect to the initial placement of an individual with exceptional needs in special education instruction, an individual assessment of the pupil's educational needs shall be conducted, by qualified persons, in accordance with requirements including, but not limited to, all the following:

(a) Testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with exceptional needs are selected and administered so as not to be racially, culturally, or sexually discriminatory.

(b) Tests and other assessment materials meet all the following requirements:

(1) Are provided and administered in the pupil's native language, ~~as defined in~~ *pursuant to* Section 300.19 of Title 34 of the Code of Federal Regulations, or other mode of communication, unless the assessment plan indicates reasons why this provision and administration are not clearly feasible. *As used*

1 in this section, the term “native language means one of the
2 following:

3 (A) The language primarily used by that individual, or, in the
4 case of a child, the language primarily used by the parents of the
5 child.

6 (B) In all direct contact with a child, including in the
7 assessment of the child, the language primarily used by the child
8 in his or her home or learning environment.

9 (C) For an individual who is deaf or blind, or, for an individual
10 with no written language, the mode of communication that is
11 primarily used by the individual, such as sign language, Braille,
12 or oral communication.

13 (2) Have been validated for the specific purpose for which they
14 are used.

15 (3) Are administered by trained personnel in conformance with
16 the instructions provided by the producer of the tests and other
17 assessment materials, except that individually administered tests
18 of intellectual or emotional functioning shall be administered by
19 a credentialed school psychologist.

20 (c) Tests and other assessment materials include those tailored
21 to assess specific areas of educational need and not merely those
22 which are designed to provide a single general intelligence
23 quotient.

24 (d) Tests are selected and administered to best ensure that when
25 a test administered to a pupil with impaired sensory, manual, or
26 speaking skills produces test results that accurately reflect the
27 pupil’s aptitude, achievement level, or any other factors the test
28 purports to measure and not the pupil’s impaired sensory, manual,
29 or speaking skills unless those skills are the factors the test purports
30 to measure.

31 (e) Pursuant to subsection (f) of Section 300.532 of Title 34 of
32 the Code of Federal Regulations, no single procedure is used as the
33 sole criterion for determining whether a pupil is an individual with
34 exceptional needs and for determining an appropriate educational
35 program for the pupil.

36 (f) The pupil is assessed in all areas related to the suspected
37 disability including, if appropriate, health and development,
38 vision, including low vision, hearing, motor abilities, language
39 function, general intelligence, academic performance,
40 communicative status, self-help, orientation and mobility skills,



1 career and vocational abilities and interests, and social and
2 emotional status. A developmental history is obtained, when
3 appropriate. For pupils with residual vision, a low vision
4 assessment shall be provided in accordance with guidelines
5 established pursuant to Section 56136. In assessing each pupil
6 under this article, the assessment shall be conducted in accordance
7 with subsection (h) of Section 300.532 of Title 34 of the Code of
8 Federal Regulations.

9 (g) The assessment of a pupil, including the assessment of a
10 pupil with a suspected low incidence disability, shall be conducted
11 by persons knowledgeable of that disability. Special attention shall
12 be given to the unique educational needs, including, but not limited
13 to, skills and the need for specialized services, materials, and
14 equipment consistent with guidelines established pursuant to
15 Section 56136.

16 (h) As part of an initial assessment, if appropriate, and as part
17 of any reassessment under Part B of the Individuals with
18 Disabilities Education Act (20 U.S.C. 1400 et seq.) and this part,
19 the group that includes members of the individualized education
20 program team, and other qualified professionals, as appropriate,
21 shall follow the procedures specified in subsection (a) of Section
22 300.533 of Title 34 of the Code of Federal Regulations. The group
23 may conduct its review without a meeting.

24 ~~SEC. 63.—~~

25 *SEC. 47.* Section 56341.5 of the Education Code is amended to
26 read:

27 56341.5. (a) Each district, special education local plan area,
28 or county office convening a meeting of the individualized
29 education program team shall take steps to ensure that no less than
30 one of the parents or guardians of the individual with exceptional
31 needs are present at each individualized education program
32 meeting or are afforded the opportunity to participate.

33 (b) Parents or guardians shall be notified of the individualized
34 education program meeting early enough to ensure an opportunity
35 to attend.

36 (c) The individualized education program meeting shall be
37 scheduled at a mutually agreed upon time and place. The notice of
38 the meeting under subdivision (b) shall indicate the purpose, time,
39 and location of the meeting and who shall be in attendance. Parents
40 or guardians shall also be informed in the notice of the right,



1 pursuant to clause (ii) of paragraph (1) of subsection (b) of Section
2 300.345 of Title 34 of the Code of Federal Regulations, to bring
3 other people to the meeting who have knowledge or special
4 expertise regarding the individual with exceptional needs.

5 (d) For an individual with exceptional needs beginning at age
6 14, or younger, if appropriate, the meeting notice shall also
7 indicate that a purpose of the meeting will be the development of
8 a statement of the transition services needs of the individual
9 required by subdivision (a) of Section 56345.1, and indicate that
10 the individual with exceptional needs is also invited to attend. In
11 accordance with paragraph (3) of subsection (b) of Section
12 300.345 of the Code of Federal Regulations, for an individual with
13 exceptional needs beginning at 16 years of age or younger, if
14 appropriate, the meeting notice shall also indicate that a purpose
15 of the meeting is the consideration of needed transition services for
16 the individual required by subdivision (b) of Section 56345.1 and
17 indicate that the individual with exceptional needs is invited to
18 attend. If the pupil does not attend the individualized education
19 program meeting, the district, special education local plan area, or
20 county office shall take steps to ensure that the pupil's preferences
21 and interests are considered in accordance with paragraph (2) of
22 subsection (b) of Section 300.344 of Title 34 of the Code of
23 Federal Regulations.

24 (e) The meeting notice shall also identify any other local
25 agency in accordance with paragraph (3) of subsection (b) of
26 Section 300.344 of Title 34 of the Code of Federal Regulations.

27 (f) If no parent or guardian can attend the meeting, the district,
28 special education local plan area, or county office shall use other
29 methods to ensure parent or guardian participation, including
30 individual or conference telephone calls.

31 (g) A meeting may be conducted without a parent or guardian
32 in attendance if the district, special education local plan area, or
33 county office is unable to convince the parent or guardian that he
34 or she should attend. In this event, the district, special education
35 local plan area, or county office shall maintain a record of its
36 attempts to arrange a mutually agreed-upon time and place, as
37 follows:

38 (1) Detailed records of telephone calls made or attempted and
39 the results of those calls.

(2) Copies of correspondence sent to the parents or guardians and any responses received.

(3) Detailed records of visits made to the home or place of employment of the parent or guardian and the results of those visits.

(h) The district, special education local plan area, or county office shall take whatever action is necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter for parents or guardian with deafness or whose native language is other than English.

(i) The district, special education local plan area, or county office shall give the parent or guardian a copy of the individualized education program, at no cost to the parent or guardian.

~~SEC. 64.—~~

SEC. 48. Section 56343.5 of the Education Code is amended to read:

56343.5. A meeting of an individualized education program team requested by a parent to review an individualized education program pursuant to subdivision (c) of Section 56343 shall be held within 30 days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's written request. If a parent makes an oral request, the school district shall notify the parent of the need for a written request and the procedure for filing a written request.

~~SEC. 65.—~~

SEC. 49. Section 56345.1 of the Education Code is amended to read:

56345.1. (a) Beginning at age 14 or younger, if determined by the individualized education program team pursuant to paragraph (1) of subsection (b) of Section 300.347 of Title 34 of the Code of Federal Regulations, and updated annually, a statement of the transition service needs of the pupil shall be included in the pupil's individualized education program. The statement shall be included under applicable components of the pupil's individualized education program that focuses on the pupil's courses of study, such as participation in advanced-placement courses or a vocational education program.

(b) Beginning at age 16 or younger and annually thereafter, in accordance with Section 56462 and paragraph (30) of Section



1 1401 of Title 20 of the United States Code, a statement of needed
2 transition services shall be included in the pupil's individualized
3 education program, including whenever appropriate, a statement
4 of interagency responsibilities or any needed linkages.

5 (c) The term "transition services" means a coordinated set of
6 activities for an individual with exceptional needs that does the
7 following:

8 (1) Is designed within an outcome-oriented process, that
9 promotes movement from school to postschool activities,
10 including postsecondary education, vocational training, integrated
11 employment, including supported employment, continuing and
12 adult education, adult services, independent living, or community
13 participation.

14 (2) Is based upon the individual pupil's needs, taking into
15 account the pupil's preferences and interests.

16 (3) Includes instruction, related services, community
17 experiences, the development of employment and other
18 postschool adult living objectives, and, when appropriate,
19 acquisition of daily living skills and functional vocational
20 evaluation.

21 (d) If a participating agency, other than the local educational
22 agency, fails to provide the transition services described in the
23 pupil's individualized education program in accordance with this
24 section, the local educational agency shall reconvene the
25 individualized education program team to identify alternative
26 strategies to meet the transition service needs for the pupil set out
27 in the program.

28 ~~SEC. 66.—~~

29 *SEC. 50.* Section 56361 of the Education Code is amended to
30 read:

31 56361. The continuum of program options shall include, but
32 not necessarily be limited to, all of the following or any
33 combination of the following:

34 (a) Regular education programs consistent with subparagraph
35 (A) of paragraph (5) of subsection (a) of Section 1412 of Title 20
36 of the United States Code and implementing regulations.

37 (b) A resource specialist program pursuant to Section 56362.

38 (c) Designated instruction and services pursuant to Section
39 56363.

40 (d) Special classes pursuant to Section 56364.

1 (e) Nonpublic, nonsectarian school services pursuant to
2 Section 56365.

3 (f) State special schools pursuant to Section 56367.

4 (g) Instruction in settings other than classrooms where
5 specially designed instruction may occur.

6 (h) Itinerant instruction in classrooms, resource rooms, and
7 settings other than classrooms where specially designed
8 instruction may occur to the extent required by federal law or
9 regulation.

10 (i) Instruction using telecommunication, and instruction in the
11 home, in hospitals, and in other institutions to the extent required
12 by federal law or regulation.

13 ~~SEC. 67.—~~

14 *SEC. 51.* Section 56364 of the Education Code is repealed.

15 ~~SEC. 68.—~~

16 *SEC. 52.* Section 56364.2 of the Education Code, is amended
17 and renumbered to read.

18 56364. (a) Special classes that serve pupils with similar and
19 more intensive educational needs shall be available. The special
20 classes may enroll pupils only when the nature or severity of the
21 disability of the individual with exceptional needs is such that
22 education in the regular classes with the use of supplementary aids
23 and services, including curriculum modification and behavioral
24 support, cannot be achieved satisfactorily. These requirements
25 also apply to separate schooling, or other removal of individuals
26 with exceptional needs from the regular educational environment.

27 (b) In providing or arranging for the provision of activities,
28 each public agency shall ensure that each individual with
29 exceptional needs participates in those activities with nondisabled
30 pupils to the maximum extent appropriate to the needs of the
31 individual with exceptional needs, including nonacademic and
32 extracurricular services and activities. Special classes shall meet
33 standards adopted by the board.

34 ~~SEC. 69.—~~

35 *SEC. 53.* Section 56364.5 of the Education Code is repealed.

36 ~~SEC. 70.—~~

37 *SEC. 54.* Section 56366 of the Education Code is amended to
38 read:

39 56366. It is the intent of the Legislature that the role of the
40 nonpublic, nonsectarian school or agency shall be maintained and

1 continued as an alternative special education service available to
2 districts, special education local plan areas, county offices, and
3 parents.

4 (a) The master contract for nonpublic, nonsectarian school or
5 agency services shall be developed in accordance with the
6 following provisions:

7 (1) The master contract shall specify the general administrative
8 and financial agreements between the nonpublic, nonsectarian
9 school or agency and the district, special education local plan area,
10 or county office to provide the special education and designated
11 instruction and services, as well as transportation specified in the
12 pupil's individualized education program. The administrative
13 provisions of the contract also shall include procedures for
14 recordkeeping and documentation, and the maintenance of school
15 records by the contracting district, special education local plan
16 area, or county office to ensure that appropriate high school
17 graduation credit is received by the pupil. The contract may allow
18 for partial or full-time attendance at the nonpublic, nonsectarian
19 school.

20 (2) (A) The master contract shall include an individual
21 services agreement for each pupil placed by a district, special
22 education local plan area, or county office that will be negotiated
23 for the length of time for which nonpublic, nonsectarian school or
24 agency special education and designated instruction and services
25 are specified in the pupil's individualized education program.

26 (B) The master contract shall include a description of the
27 process being utilized by the school district, county office of
28 education, or special education local plan area to oversee and
29 evaluate placements in nonpublic, nonsectarian schools. This
30 description shall include a method for evaluating whether the pupil
31 is making appropriate educational progress.

32 (3) Changes in educational instruction, services, or placement
33 provided under contract may only be made on the basis of
34 revisions to the pupil's individualized education program.

35 At any time during the term of the contract or individual services
36 agreement, the parent; nonpublic, nonsectarian school or agency;
37 or district, special education local plan area, or county office may
38 request a review of the pupil's individualized education program
39 by the individualized education program team. Changes in the
40 administrative or financial agreements of the master contract that

1 do not alter the individual services agreement that outlines each
2 pupil's educational instruction, services, or placement may be
3 made at any time during the term of the contract as mutually agreed
4 by the nonpublic, nonsectarian school or agency and the district,
5 special education local plan area, or county office.

6 (4) The master contract or individual services agreement may
7 be terminated for cause. The cause shall not be the availability of
8 a public class initiated during the period of the contract unless the
9 parent agrees to the transfer of the pupil to a public school
10 program. To terminate the contract either party shall give 20 days'
11 notice.

12 (5) The nonpublic, nonsectarian school or agency shall provide
13 all services specified in the individualized education program,
14 unless the nonpublic, nonsectarian school or agency and the
15 district, special education local plan area, or county office agree
16 otherwise in the contract or individualized services agreement.

17 (6) Related services provided pursuant to a nonpublic,
18 nonsectarian agency master contract shall only be provided during
19 the period of the child's regular or extended school year program,
20 or both, unless otherwise specified by the pupil's individualized
21 education program.

22 (7) The nonpublic, nonsectarian school or agency shall report
23 attendance of pupils receiving special education and designated
24 instruction and services as defined by Section 46307 for purposes
25 of submitting a warrant for tuition to each contracting district,
26 special education local plan area, or county office.

27 (b) The master contract or individual services agreement shall
28 not include special education transportation provided through the
29 use of services or equipment owned, leased, or contracted by a
30 district, special education local plan area, or county office for
31 pupils enrolled in the nonpublic, nonsectarian school or agency
32 unless provided directly or subcontracted by that nonpublic,
33 nonsectarian school or agency.

34 The superintendent shall withhold 20 percent of the amount
35 apportioned to a school district or county office for costs related
36 to the provision of nonpublic, nonsectarian school or agency
37 placements if the superintendent finds that the local education
38 agency is in noncompliance with this subdivision. This amount
39 shall be withheld from the apportionments in the fiscal year
40 following the superintendent's finding of noncompliance. The

1 superintendent shall take other appropriate actions to prevent
2 noncompliant practices from occurring and report to the
3 Legislature on those actions.

4 (c) (1) If the pupil is enrolled in the nonpublic, nonsectarian
5 school or agency with the approval of the district, special
6 education local plan area, or county office prior to agreement to a
7 contract or individual services agreement, the district, special
8 education local plan area, or county office shall issue a warrant,
9 upon submission of an attendance report and claim, for an amount
10 equal to the number of creditable days of attendance at the per diem
11 tuition rate agreed upon prior to the enrollment of the pupil. This
12 provision shall be allowed for 90 days during which time the
13 contract shall be consummated.

14 (2) If after 60 days the master contract or individual services
15 agreement has not been finalized as prescribed in paragraph (1) of
16 subdivision (a), either party may appeal to the county
17 superintendent of schools, if the county superintendent is not
18 participating in the local plan involved in the nonpublic,
19 nonsectarian school or agency contract, or the superintendent, if
20 the county superintendent is participating in the local plan
21 involved in the contract, to negotiate the contract. Within 30 days
22 of receipt of this appeal, the county superintendent or the
23 superintendent, or his or her designee, shall render a decision,
24 which shall be the final administrative decision and binding upon
25 both parties.

26 (d) No master contract for special education and related
27 services provided by a nonpublic, nonsectarian school or agency
28 shall be authorized under this part unless the school or agency has
29 been certified as meeting those standards relating to the required
30 special education and specified related services and facilities for
31 individuals with exceptional needs. The certification shall result
32 in the school's or agency's receiving approval to educate pupils
33 under this part for a period no longer than four years from the date
34 of the approval.

35 (e) By September 30, 1998, the procedures, methods, and
36 regulations for the purposes of contracting for nonpublic,
37 nonsectarian school and agency services pursuant to this section
38 and for reimbursement pursuant to Sections 56836.16 and
39 56836.20 shall be developed by the superintendent in consultation
40 with statewide organizations representing providers of special

1 education and designated instruction and services. The regulations
2 shall be established by rules and regulations issued by the board.

3 ~~SEC. 71.—~~

4 *SEC. 55.* Section 56390 of the Education Code is amended to
5 read:

6 56390. Notwithstanding Section 51412 or any other
7 provision of law, a local educational agency shall award an
8 individual with exceptional needs a certificate or document of
9 educational achievement or completion if the requirements of
10 subdivision (a), (b), or (c) are met.

11 (a) The individual has satisfactorily completed a prescribed
12 alternative course of study approved by the governing board of the
13 school district in which the individual attended school or the
14 school district with jurisdiction over the individual and identified
15 in his or her individualized education program.

16 (b) The individual has satisfactorily met his or her
17 individualized education program goals and objectives during
18 high school as determined by the individualized education
19 program team.

20 (c) The individual has satisfactorily attended high school,
21 participated in the instruction as prescribed in his or her
22 individualized education program, and has met the objectives of
23 the statement of transition services.

24 ~~SEC. 72.—~~

25 *SEC. 56.* Section 56391 of the Education Code is amended to
26 read:

27 56391. A school district shall permit an individual with
28 exceptional needs who meets the criteria for a certificate or
29 document described in Section 56390 to participate in any
30 graduation ceremony and any school activity related to graduation
31 in which a pupil of similar age without disabilities would be
32 eligible to participate. The right to participate in graduation
33 ceremonies does not equate a certificate or document described in
34 Section 56390 with a regular high school diploma.

35 ~~SEC. 73.—~~

36 *SEC. 57.* Section 56500.3 of the Education Code is amended to
37 read:

38 56500.3. (a) It is the intent of the Legislature that parties to
39 special education disputes be encouraged to seek resolution
40 through mediation prior to filing a request for a due process

1 hearing. It is also the intent of the Legislature that these voluntary
2 prehearing request mediation conferences be an informal process
3 conducted in a nonadversarial atmosphere to resolve issues
4 relating to the identification, assessment, or educational placement
5 of the child, or the provision of a free, appropriate public education
6 to the child, to the satisfaction of both parties. Therefore, attorneys
7 or other independent contractors used to provide legal advocacy
8 services may not attend or otherwise participate in the prehearing
9 request mediation conferences.

10 (b) This part does not preclude the parent or the public
11 educational agency from being accompanied and advised by
12 nonattorney representatives in the mediation conferences and
13 consulting with an attorney prior to or following a mediation
14 conference. For purposes of this section, “attorney” means an
15 active, practicing member of the State Bar of California or another
16 independent contractor used to provide legal advocacy services,
17 but does not mean a parent of the pupil who is also an attorney.

18 (c) Requesting or participating in a mediation conference is not
19 a prerequisite to requesting a due process hearing.

20 (d) All requests for a mediation conference shall be filed with
21 the superintendent. The party initiating a mediation conference by
22 filing a written request with the superintendent shall provide the
23 other party to the mediation with a copy of the request at the same
24 time the request is filed with the superintendent. The mediation
25 conference shall be conducted by a person knowledgeable in the
26 process of reconciling differences in a nonadversarial manner and
27 under contract with the department pursuant to Section 56504.5.
28 The mediator shall be knowledgeable in the laws and regulations
29 governing special education.

30 (e) The prehearing mediation conference shall be scheduled
31 within 15 days of receipt by the superintendent of the request for
32 mediation. The mediation conference shall be completed within
33 30 days after receipt of the request for mediation unless both
34 parties to the prehearing mediation conference agree to extend the
35 time for completing the mediation.

36 (f) Based upon the mediation conference, the district
37 superintendent, the county superintendent, or the director of the
38 public educational agency, or his or her designee, may resolve the
39 issue or issues. However, this resolution may not conflict with state
40 or federal law and shall be to the satisfaction of both parties. A

1 copy of the written resolution shall be mailed to each party within
2 10 days following the mediation conference.

3 (g) If the mediation conference fails to resolve the issues to the
4 satisfaction of all parties, the party who requested the mediation
5 conference has the option of filing for a state-level hearing
6 pursuant to Section 56505. The mediator may assist the parties in
7 specifying any unresolved issues to be included in the hearing
8 request.

9 (h) Any mediation conference held pursuant to this section
10 shall be scheduled in a timely manner and shall be held at a time
11 and place reasonably convenient to the parties to the dispute in
12 accordance with paragraph (4) of subsection (b) of Section
13 300.506 of Title 34 of the Code of Federal Regulations.

14 (i) The mediation conference shall be conducted in accordance
15 with regulations adopted by the board.

16 (j) Notwithstanding any procedure set forth in this chapter, a
17 public educational agency and a parent may, if the party initiating
18 the mediation conference so chooses, meet informally to resolve
19 any issue or issues to the satisfaction of both parties prior to the
20 mediation conference.

21 (k) The procedures and rights contained in this section shall be
22 included in the notice of parent rights attached to the pupil's
23 assessment plan pursuant to Section 56321.

24 ~~SEC. 74.—~~

25 *SEC. 58.* Section 56504.5 of the Education Code is amended to
26 read:

27 56504.5. The department shall contract with a single,
28 nonprofit organization or entity to conduct mediation conferences
29 and due process hearings in accordance with Sections 300.506 and
30 300.508 of Title 34 of the Code of Federal Regulations.

31 ~~SEC. 75.—~~

32 *SEC. 59.* Section 56505 of the Education Code is amended to
33 read:

34 56505. (a) The state hearing shall be conducted in
35 accordance with regulations adopted by the board.

36 (b) The hearing shall be held at a time and place reasonably
37 convenient to the parent or guardian and the pupil.

38 (c) The hearing shall be conducted by a person knowledgeable
39 in the laws governing special education and administrative
40 hearings pursuant to Section 56504.5. The hearing officer shall

1 encourage the parties to a hearing to consider the option of
2 mediation as an alternative to a hearing.

3 (d) Pursuant to subsection (a) of Section 300.514 of Title 34
4 of the Code of Federal Regulations, during the pendency of the
5 hearing proceedings, including the actual state level hearing, or
6 judicial proceeding regarding a due process hearing, the pupil shall
7 remain in his or her present placement, except as provided in
8 Section 300.526 of Title 34 of the Code of Federal Regulations,
9 unless the public agency and the parent or guardian agree
10 otherwise. A pupil applying for initial admission to a public school
11 shall, with the consent of his or her parent or guardian, be placed
12 in the public school program until all proceedings have been
13 completed. As provided in subsection (c) of Section 300.514 of
14 Title 34 of the Code of Federal Regulations, if the decision of a
15 hearing officer in a due process hearing or a state review official
16 in an administrative appeal agrees with the pupil's parent or
17 guardian that a change of placement is appropriate, that placement
18 must be treated as an agreement between the state or local agency
19 and the parent or guardian.

20 (e) Any party to the hearing held pursuant to this section shall
21 be afforded the following rights consistent with state and federal
22 statutes and regulations:

23 (1) The right to be accompanied and advised by counsel and by
24 individuals with special knowledge or training relating to the
25 problems of individuals with exceptional needs.

26 (2) The right to present evidence, written arguments, and oral
27 arguments.

28 (3) The right to confront, cross-examine, and compel the
29 attendance of witnesses.

30 (4) The right to a written, or, at the option of the parents or
31 guardians, electronic verbatim record of the hearing.

32 (5) The right to written, or, at the option of the parent or
33 guardian, electronic findings of fact and decisions. The record of
34 the hearing and the findings of fact and decisions shall be provided
35 at no cost to parents or guardians in accordance with paragraph (2)
36 of subsection (c) of Section 300.509 of Title 34 of the Code of
37 Federal Regulations. The findings and decisions shall be made
38 available to the public after any personally identifiable
39 information has been deleted consistent with the confidentiality
40 requirements of subsection (c) of Section 1417 of Title 20 of the

1 United States Code and shall also be transmitted to the Advisory
2 Commission on Special Education pursuant to paragraph (4) of
3 subsection (h) of Section 1415 of Title 20 of the United States
4 Code.

5 (6) The right to be informed by the other parties to the hearing,
6 at least 10 days prior to the hearing, as to what those parties believe
7 are the issues to be decided at the hearing and their proposed
8 resolution of those issues. Upon the request of a parent who is not
9 represented by an attorney, the agency responsible for conducting
10 hearings shall provide a mediator to assist the parent in identifying
11 the issues and the proposed resolution of the issues.

12 (7) The right to receive from other parties to the hearing, at least
13 five business days prior to the hearing, a copy of all documents and
14 a list of all witnesses and their general area of testimony that the
15 parties intend to present at the hearing. Included in the material to
16 be disclosed to all parties at least five business days prior to a
17 hearing shall be all assessments completed by that date and
18 recommendations based on the assessments that the parties intend
19 to use at the hearing.

20 (8) The right, pursuant to paragraph (3) of subsection (a) of
21 Section 300.509 of Title 34 of the Code of Federal Regulations, to
22 prohibit the introduction of any evidence at the hearing that has not
23 been disclosed to that party at least five business days before the
24 hearing.

25 (f) The hearing conducted pursuant to this section shall be
26 completed and a written, reasoned decision mailed to all parties to
27 the hearing within 45 days from the receipt by the superintendent
28 of the request for a hearing. Either party to the hearing may request
29 the hearing officer to grant an extension. The extension shall be
30 granted upon a showing of good cause. Any extension shall extend
31 the time for rendering a final administrative decision for a period
32 only equal to the length of the extension.

33 (g) The hearing conducted pursuant to this section shall be the
34 final administrative determination and binding on all parties.

35 (h) In decisions relating to the placement of individuals with
36 exceptional needs, the person conducting the state hearing shall
37 consider cost, in addition to all other factors that are considered.

38 (i) Nothing in this chapter shall preclude a party aggrieved by
39 the findings and decisions in a hearing under this section from
40 exercising the right to appeal the decision to a state court of



1 competent jurisdiction. An aggrieved party may also exercise the
2 right to bring a civil action in a district court of the United States
3 without regard to the amount in controversy, pursuant to Section
4 300.512 of Title 34 of the Code of Federal Regulations. An appeal
5 shall be made within 90 days of receipt of the hearing decision.
6 During the pendency of any administrative or judicial proceeding
7 conducted pursuant to Chapter 5 (commencing with Section
8 56500), unless the public education agency and the parents of the
9 child agree otherwise, the child involved in the hearing shall
10 remain in his or her present educational placement. Any action
11 brought under this subdivision shall adhere to the provisions of
12 subsection (b) of Section 300.512 of Title 34 of the Code of
13 Federal Regulations.

14 (j) Any request for a due process hearing arising under
15 subdivision (a) of Section 56501 shall be filed within three years
16 from the date the party initiating the request knew or had reason
17 to know of the facts underlying the basis for the request.

18 ~~SEC. 76.—~~

19 *SEC. 60.* Section 56506 of the Education Code is amended to
20 read:

21 56506. In addition to the due process hearing rights
22 enumerated in subdivision (b) of 56501, the following due process
23 rights extend to the pupil and the parent:

24 (a) Written notice to the parent of his or her rights in language
25 easily understood by the general public and in the native language
26 of the parent, as defined in Section 300.19 of Title 34 of the Code
27 of Federal Regulations or other mode of communication used by
28 the parent, unless to do so is clearly not feasible. The written notice
29 of rights shall include, but not be limited to, those prescribed by
30 Section 56341.

31 (b) The right to initiate a referral of a child for special education
32 services pursuant to Section 56303.

33 (c) The right to obtain an independent educational assessment
34 pursuant to subdivision (b) of Section 56329.

35 (d) The right to participate in the development of the
36 individualized education program and to be informed of the
37 availability under state and federal law of free appropriate public
38 education and of all available alternative programs, both public
39 and nonpublic.



(e) Written parental consent pursuant to Section 56321 shall be obtained before any assessment of the pupil is conducted unless the public education agency prevails in a due process hearing relating to the assessment. In accordance with subsection (c) of Section 300.505 of Title 34 of the Code of Federal Regulations, informed parental consent need not be obtained in the case of a reassessment of the pupil if the local educational agency can demonstrate that it has taken reasonable measures to obtain consent and the pupil's parent has failed to respond.

(f) Written parental consent pursuant to Section 56321 shall be obtained before the pupil is placed in a special education program.

~~SEC. 77.—~~

SEC. 61. Section 56605 of the Education Code is amended to read:

56605. The superintendent shall periodically provide information or sponsor or conduct workshops and seminars, or both, for the education of local education agency personnel assigned to, and responsible for, the evaluation of local special education programs.

~~SEC. 78.—~~

SEC. 62. Section 56836.01 of the Education Code is amended to read:

56836.01. Commencing with the 1998–99 fiscal year and each fiscal year thereafter, the administrator of each special education local plan area, in accordance with the local plan approved by the board, shall be responsible for the following:

(a) The fiscal administration of the annual budget plan pursuant to paragraph (1) of subdivision (b) of Section 56205 and annual allocation plan for multidistrict special education local plan areas pursuant to Section 56836.05 for special education programs of school districts and county superintendents of schools composing the special education local plan area.

(b) The allocation of state and federal funds allocated to the special education local plan area for the provision of special education and related services by those entities.

(c) The reporting and accounting requirements prescribed by this part.

~~SEC. 79.—~~

SEC. 63. Section 56836.155 of the Education Code is amended to read:

1 56836.155. (a) On or before November 2, 1998, the
2 department, in conjunction with the Office of the Legislative
3 Analyst, shall do the following:

4 (1) Calculate an “incidence multiplier” for each special
5 education local plan area using the definition, methodology, and
6 data provided in the final report submitted by the American
7 Institutes for Research pursuant to Section 67 of Chapter 854 of the
8 Statutes of 1997.

9 (2) Submit the incidence multiplier for each special education
10 local plan area and supporting data to the Department of Finance.

11 (b) The Department of Finance shall review the incidence
12 multiplier for each special education local plan area and the
13 supporting data, and report any errors to the department and the
14 Office of the Legislative Analyst for correction.

15 (c) The Department of Finance shall approve the final
16 incidence multiplier for each special education local plan area by
17 November 23, 1998.

18 (d) For the 1998–99 fiscal year and each fiscal year thereafter
19 to and including the 2002–03 fiscal year, the superintendent shall
20 perform the following calculation to determine each special
21 education local plan area’s adjusted entitlement for the incidence
22 of disabilities:

23 (1) The incidence multiplier for the special education local plan
24 area shall be multiplied by the statewide target amount per unit of
25 average daily attendance for special education local plan areas
26 determined pursuant to Section 56836.11 for the fiscal year in
27 which the computation is made.

28 (2) The amount determined pursuant to paragraph (1) shall be
29 added to the statewide target amount per unit of average daily
30 attendance for special education local plan area determined
31 pursuant to Section 56836.11 for the fiscal year in which the
32 computation is made.

33 (3) Subtract the amount of funding for the special education
34 local plan area determined pursuant to paragraph (1) of
35 subdivision (a) or paragraph (1) of subdivision (b) of Section
36 56836.08, as appropriate for the fiscal year in which the
37 computation is made, or the statewide target amount per unit of
38 average daily attendance for special education local plan areas
39 determined pursuant to Section 56836.11 for the fiscal year in
40 which the computation is made, whichever is greater, from the

1 amount determined pursuant to paragraph (2). For the purposes of
2 this paragraph for the 2001–02 and 2002–03 fiscal years, the
3 amount, if any, received pursuant to Section 56836.159 shall be
4 excluded from the funding level per unit of average daily
5 attendance for a special education local plan area. If the result is
6 less than zero, the special education local plan area may not receive
7 an adjusted entitlement for the incidence of disabilities.

8 (4) Multiply the amount determined in paragraph (3) by either
9 the average daily attendance reported for the special education
10 local plan area for the fiscal year in which the computation is made,
11 as adjusted pursuant to subdivision (a) of Section 56836.15, or the
12 average daily attendance reported for the special education local
13 plan area for the prior fiscal year, as adjusted pursuant to
14 subdivision (a) of Section 56826.15, whichever is less.

15 (5) If there are insufficient funds appropriated in the fiscal year
16 for which the computation is made for the purposes of this section,
17 the amount received by each special education local plan area shall
18 be prorated.

19 (e) For the 1997–98 fiscal year, the superintendent shall
20 perform the calculation in paragraphs (1) to (3), inclusive, of
21 paragraph (d) only for the purposes of making the computation in
22 paragraph (1) of subdivision (d) of Section 56836.08, but the
23 special education local plan area shall not receive an adjusted
24 entitlement for the incidence of disabilities pursuant to this section
25 for the 1997–98 fiscal year.

26 (f) On or before March 1, 2003, the Office of the Legislative
27 Analyst, in conjunction with the Department of Finance and the
28 department, shall submit to the Legislature a new study of the
29 incidence multiplier, with recommendations as to the necessity of
30 continuing to adjust the funding formula contained in this chapter
31 for the purposes of this section to the extent that funding is
32 provided for this purpose. The Office of the Legislative Analyst
33 may contract for this study. It is the intent of the Legislature to
34 provide funding for this study in the Budget Act of 2002.

35 ~~SEC. 80.—~~

36 *SEC. 64.* Section 56863 of the Education Code is amended to
37 read:

38 56863. The state hospitals, as part of the notification to
39 parents of pupils of their rights pursuant to the Individuals with
40 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the

Rehabilitation Act of 1973 (29 U.S.C. Sec. 701 et seq.), and this part and implementing regulations, shall notify parents of the right that their child can be considered for education programs other than on state hospital grounds.

For the purposes of this section, the term “parent of pupil” shall mean a parent, a legal guardian, a conservator, a person acting as a parent of a child, or a surrogate parent appointed pursuant to Section 300.515 of the Code of Federal Regulations.

Information and records concerning state hospital patients in the possession of the Superintendent of Public Instruction shall be treated as confidential under Section 5328 of the Welfare and Institutions Code and the Federal Privacy Act of 1974, Public Law 93-579.

~~SEC. 81. Section 58562 of the Education Code is amended to read:~~

~~58562. This chapter shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~SEC. 82.—~~

SEC. 65. Section 60040 of the Education Code is amended to read:

60040. When adopting instructional materials for use in the schools, governing boards shall include only instructional materials which, in their determination, accurately portray the cultural and racial diversity of our society, including:

(a) The contributions of both men and women in all types of roles, including professional, vocational, and executive roles.

(b) The role and contributions of American Indians, African Americans, Mexican Americans, Asian Americans, European Americans, and members of other ethnic and cultural groups to the total development of California and the United States.

(c) The role and contributions of the entrepreneur and labor in the total development of California and the United States.

~~SEC. 83.—~~

SEC. 66. Section 60119 of the Education Code is amended to read:

60119. (a) For the 1999–2000 fiscal year and each fiscal year thereafter, in order to be eligible to receive funds available for the

1 purposes of this article, the governing board of a school district
2 shall take the following actions:

3 (1) The governing board shall hold a public hearing or hearings
4 at which the governing board shall encourage participation by
5 parents, teachers, members of the community interested in the
6 affairs of the school district, and bargaining unit leaders, and shall
7 make a determination, through a resolution, as to whether each
8 pupil in each school in the district has, or will have prior to the end
9 of that fiscal year, sufficient textbooks or instructional materials,
10 or both, in each subject that are consistent with the content and
11 cycles of the curriculum framework adopted by the state board.

12 (2) (A) If the governing board determines that there are
13 insufficient textbooks or instructional materials, or both, the
14 governing board shall provide information to classroom teachers
15 and to the public setting forth the reasons that each pupil does not
16 have sufficient textbooks or instructional materials, or both, and
17 take any action, except an action that would require
18 reimbursement by the Commission on State Mandates, to ensure
19 that each pupil has sufficient textbooks or instructional materials,
20 or both, within a two-year period from the date of the
21 determination.

22 (B) In carrying out subparagraph (A), the governing board may
23 use money in any of the following funds:

24 (i) Any funds available for textbooks or instructional materials,
25 or both, from categorical programs, including any funds allocated
26 to school districts that have been appropriated in the annual Budget
27 Act.

28 (ii) Any funds of the school district that are in excess of the
29 amount available for each pupil during the prior fiscal year to
30 purchase textbooks or instructional materials, or both.

31 (iii) Any other funds available to the school district for
32 textbooks or instructional materials, or both.

33 (b) The governing board shall provide notice of the public
34 hearing or hearings set forth in subdivision (a) in a manner in
35 which it customarily provides similar notices and information to
36 the public.

37 (c) Except for purposes of Section 60252, governing boards of
38 school districts that receive funds for instructional materials from
39 any state source, are subject to the requirements of this section only
40 in a fiscal year in which the Superintendent of Public Instruction

determines that the base revenue limit for each school district will increase by at least 1 percent per unit of average daily attendance from the prior fiscal year.

(d) The governing board of a school district is eligible to receive funds available for the purposes of this article for the 1994–95 fiscal year to the 1998–99 fiscal year, inclusive, whether or not the governing board complied with the public hearing requirement set forth in paragraph (1) of subdivision (a).

~~SEC. 84.—~~

SEC. 67. Section 62002 of the Education Code is repealed.

~~SEC. 85.—~~

SEC. 68. Section 62007 of the Education Code is repealed.

~~SEC. 86.—~~

SEC. 69. Section 62008 of the Education Code is repealed.

~~SEC. 87.—~~

SEC. 70. Section 19050.8 of the Government Code is amended to read:

19050.8. The board may prescribe rules governing the temporary assignment or loan of employees within an agency or between agencies for not to exceed two years or between jurisdictions for not to exceed four years for any of the following purposes:

(a) To provide training to employees.

(b) To enable an agency to obtain expertise needed to meet a compelling program or management need.

(c) To facilitate the return of injured employees to work.

These temporary assignments or loans shall be deemed to be in accord with this part limiting employees to duties consistent with their class and may be used to meet minimum requirements for promotional as well as open examinations. An employee participating in that arrangement shall have the absolute right to return to his or her former position. Any temporary assignment or loan of an employee made for the purpose specified in subdivision (b) shall be made only with the voluntary consent of the employee.

In addition, out-of-class experience obtained in a manner not described in this section may be used to meet minimum requirements for promotional as well as open examinations, only if it was obtained by the employee in good faith and was properly verified under standards prescribed by board rule.

1 For purposes of this section, a temporary assignment or loan
2 between educational agencies or jurisdictions shall be extended for
3 up to two additional years upon a finding by the Superintendent of
4 Public Instruction or the Chancellor of the California Community
5 Colleges, and with the approval of the Executive Officer of the
6 State Personnel Board, that the extension is necessary in order to
7 substantially complete work on an educational improvement
8 project. However, the temporary assignment of any local educator
9 who is performing the duties of a nonrepresented classification
10 while on loan to a state education agency may be extended for as
11 many successive two year intervals as necessary by the
12 Superintendent of Public Instruction or the Chancellor of
13 Community Colleges with the concurrence of the education
14 agency or jurisdiction. Public and private colleges and universities
15 shall be considered educational agencies or jurisdictions within the
16 meaning of this section.

17 A temporary assignment within an agency or between agencies
18 may be extended by the board for up to two additional years in
19 order for an employee to complete an apprenticeship program.

20 ~~SEC. 88.—Section 54901 of the Government Code is amended~~
21 ~~to read:~~

22 ~~54901.—(a) The statement shall be in the form required by the~~
23 ~~Board of Equalization and include a certified copy of the ordinance~~
24 ~~or resolution ordering the creation of or change in boundary of the~~
25 ~~city, district or zone thereof, a legal description of said boundaries~~
26 ~~and a map or plat indicating the boundaries.~~

27 ~~(b) If the proceedings require the executive officer of a local~~
28 ~~agency formation commission to execute a certificate of~~
29 ~~completion of proceedings, the statement shall set forth the~~
30 ~~effective date of the proceeding. The statement shall also specify~~
31 ~~whether or not the affected property will be taxed for any existing~~
32 ~~bonded indebtedness or contractual obligations, and specify the~~
33 ~~change associated with each affected agency.~~

34 ~~(c) For changes of organization or reorganizations which~~
35 ~~include the incorporation of, annexation to, or detachment from a~~
36 ~~city, the statement shall also include the estimated population of~~
37 ~~the affected territory and include a map or plat showing limiting~~
38 ~~addresses on streets within the affected territory.~~

39 ~~(d) For changes of organization or reorganizations that include~~
40 ~~the annexation to, or detachment from, a school district, the~~

~~statement shall also include the estimated public school pupil population from the affected territory.~~

~~SEC. 89. Section 54902 of the Government Code is amended to read:~~

~~54902. (a) On or before December 1 of the year immediately preceding the year in which the assessments or taxes are to be levied, the statement shall be filed with the auditor of each levying county, and the statement and the map or plat shall be filed with each assessor whose roll is used for the levy and with the State Board of Equalization in Sacramento.~~

~~(b) When a statement of the creation or change of boundaries of a school district and a map or plat thereof is required to be filed with the State Board of Equalization, the authority required to file the statement and map or plat shall, at the same time, file a copy of the statement and map or plat with the Superintendent of Public Instruction and the county superintendent of schools of the county in which the school district is located.~~

~~SEC. 90. Section 54903.1 of the Government Code is repealed.~~

~~SEC. 91.—~~

~~SEC. 71. Section 45 of Chapter 1167 of the Statutes of 2002 is amended to read:~~

~~Sec. 45. The sum of three hundred thirteen million nine hundred eight thousand dollars (\$313,908,000) is hereby appropriated for purposes of the School Improvement Programs by adding Item 6110-116-0001 to Section 2.00 of the Budget Act of 2002, to read:~~

6110-116-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 20.60.030- School Improvement Programs, pursuant to Chapter 6 (commencing with Section 52000) of Part 28 of the Education Code 313,908,000

Schedule:

(1) 20.60.030.010—For the purpose of making allowances for kindergarten and grades 1 to 6, inclusive 259,727,000

- (2) 20.60.030.020—For the purpose of making allowances for grades 7 to 12, inclusive 54,181,000

Provisions:

1. From the funds appropriated in Schedule (2), the State Department of Education shall allocate \$34.67 per unit of average daily attendance (ADA) generated by pupils enrolled in grades 7 and 8 to those school districts that received School Improvement Grants in the 1989–90 fiscal year at a rate of \$30 per unit of ADA generated by pupils enrolled in grades 7 and 8. The State Department of Education shall allocate \$123.18 per unit of ADA generated by pupils enrolled in grades 7 and 8 to school districts that received School Improvement Grants in the 1989–90 fiscal year at a rate of \$106.93 per unit of ADA generated by pupils in grades 7 and 8.
2. Of the funds appropriated in Schedule (1) of this item, \$6,963,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.00 percent.
3. Of the funds appropriated in Schedule (2) of this item, \$2,303,000 is for the purpose of providing an adjustment for increases in average daily attendance at a rate of 3.27 percent. If growth funds are insufficient, the State Department of Education may adjust the per-pupil funding rates to conform to available funds. Additionally, \$1,453,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.00 percent.

~~SEC. 92. Notwithstanding any other provision of law, the average daily attendance for the second principal apportionment of the 2001–02 fiscal year for the Oxnard Union High School District shall be calculated as 89.10 percent of the October 2001 CBEDS enrollment of 14,922, as approved by the Department of Finance.~~

~~SEC. 93.—~~

~~SEC. 72. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs that may be incurred by a local agency or school district because provisions of this act implement a federal law or~~

1 regulation and results in costs mandated by the federal
2 government, within the meaning of Section 17556 of the
3 Government Code.

4 However, notwithstanding Section 17610 of the Government
5 Code, if the Commission on State Mandates determines that this
6 act contains other costs mandated by the state, reimbursement to
7 local agencies and school districts for those costs shall be made
8 pursuant to Part 7 (commencing with Section 17500) of Division
9 4 of Title 2 of the Government Code. If the statewide cost of the
10 claim for reimbursement does not exceed one million dollars
11 (\$1,000,000), reimbursement shall be made from the State
12 Mandates Claims Fund.

13 ~~SEC. 94.—~~

14 *SEC. 73.* This act is an urgency statute necessary for the
15 immediate preservation of the public peace, health, or safety
16 within the meaning of Article IV of the Constitution and shall go
17 into immediate effect. The facts constituting the necessity are:

18 In order to ensure that the educational programs affected by this
19 act are properly implemented, pursuant to the clarifying, technical,
20 and other changes made by this act, it is necessary that this act take
21 effect immediately.

